

(B) Upon a licensee being granted a license for Sunday sales pursuant to this chapter, it shall be permitted to sell or dispense alcoholic beverages only between the hours of 1:00 p.m. and 9:00 p.m. on Sundays..

(C) All delivery of alcoholic beverages in the County shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

~~(D) The licensee shall not sell or dispense any alcoholic beverages during the hours that the polls are open on any regular or primary election day.~~

~~—(E) The licensee shall remain closed during the hours the polls are open on any regular or primary election day, unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.~~

\* \* \*

#### § 110.29 REVIEW OF LICENSE.

(A) Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant ~~to KRS 242.1244(2)~~ KRS 242-185(6) under this chapter shall provide periodic information demonstrating compliance with the continuing requirement that 70% of the applicant's business income is earned from the sale of food.

(B) This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly Occupational Tax fee filings.

(C) This information shall consist of a certificate from the licensee. This certificate shall state:

"I hereby submit the pertinent records of \_\_\_\_\_, Licensee under Ordinance No. \_\_\_\_, Series 2003, and certify that the Licensee earned at least 70% of its gross receipts from the sale of food during the quarter ending \_\_\_\_\_. The Licensee derived \_\_\_\_% of its gross sales from food and \_\_\_\_% of its gross receipts from alcohol."

(D) This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.

DOCUMENT NO: 398385  
RECORDED: December 23, 2013 03:28:00 PM  
TOTAL FEES: \$0.00  
COUNTY CLERK: SUE CAROLE PERRY  
DEPUTY CLERK: SUE CAROLE PERRY  
COUNTY: SHELBY COUNTY

BOOK: 02012 PAGES: 364 - 367

*Sections of Chapter 110 of the Shelby County Code of Ordinances are amended as follows:*

**§ 110.01 PURPOSE.**

(A) The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.1244(2)~~KRS 242.185(6)~~ for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of 70% of its gross receipts from the sale of food and pursuant to KRS 242.123 for any 9 or 18 hole regulation golf course that has been approved for the limited sales of alcoholic beverages.

(B) To realize this intent, the County of Shelby shall implement this chapter in a manner as to assure that:

(1) Restaurants and dining facilities licensed under this chapter shall seat a minimum of 100 persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. This seating must comply with all fire and safety capacity ratings and regulations.

(2) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(3) Restaurants and dining facilities licensed under this chapter shall derive a minimum of 70% of their gross receipts from the sale of food as certified by periodic documentation.

(4) Nine or 18 hole golf courses that have been approved for the limited sale of alcoholic beverages pursuant to KRS 242.123.

\* \* \*

**§ 110.04 LICENSES; SCOPE.**

Under this chapter a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.1244(2)~~KRS 242.185(6)~~ and KRS 242.123.

\* \* \*

**§ 110.06 HOURS FOR SALE AND DELIVERY; RESTRICTIONS.**

(A) Upon the licensee being granted a license pursuant to this chapter, it shall not be permitted to sell or dispense these beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

COMMONWEALTH OF KENTUCKY  
SHELBY COUNTY FISCAL COURT  
ORDINANCE NO. 12-23-08, SERIES 2013

AN ORDINANCE RELATING TO THE AMENDMENT OF THE SHELBY COUNTY CODE OF ORDINANCES CHAPTER 110: ALCOHOLIC BEVERAGES

WHEREAS, during the 2013 Legislative Session the Kentucky General Assembly, through Senate Bill 13, adopted amendments to Chapters 241 to 244 of the Kentucky Revised Statutes regarding alcoholic beverages and licensing; and

WHEREAS, the Senate Bill 13 requires counties amend alcoholic beverage ordinances to conform with the revisions made to the Kentucky Revised Statutes in order to maintain local regulatory and licensing authority pertaining to alcoholic beverages; and


WHEREAS, the County of Shelby, through the Selby County Fiscal Court, desires to implement any necessary amendments to the Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages,

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court, County of Shelby, Commonwealth of Kentucky, that the Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, be amended to read as follows:

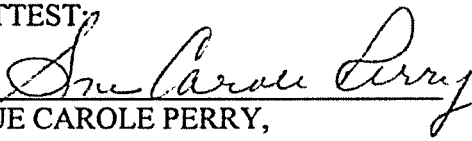
SEE "EXHIBIT A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

INTRODUCED, SECONDED AND GIVEN A FIRST READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 9th day of December, 2013.

INTRODUCED, SECONDED AND GIVEN A SECOND READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 23rd day of December, 2013.

  
ROB ROTHENBURGER,  
Shelby County Judge/Executive

ATTEST:

  
SUE CAROLE PERRY,  
Shelby County Clerk

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SHELBY COUNTY FISCAL COURT

## CHAPTER 110: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 110.01 Purpose
- 110.02 Definitions
- 110.03 Scope
- 110.04 Licenses; scope
- 110.05 Duties of City Alcoholic Beverage Control Administrator
- (110.06 Hours for sale and delivery; restrictions
- 110.07 Conditions, prohibitions, and restrictions
- 110.08 Sunday Sales
- 110.09 Enforcement
- 110.10 Effective date

#### *Licensing*

- 110.20 Application
- 110.21 Fees
- 110.22 Refund of license fees
- 110.23 Lost or destroyed license
- 110.24 Temporary closing
- 110.25 Revocation or suspension
- 110.26 Notice to licensee; surrender of license; hearing
- 110.27 Transfer or assignment
- 110.28 Refusal of license
- 110.29 Review of license
- 110.30 Change of information
- 110.31 Dormancy
- 110.32 Approval of premises
- 110.33 Delinquent taxes or fees
- 110.34 Books, records, and reports
- 110.35 Mandatory STAR training for all persons employed to serve alcoholic beverages
- 110.36 Nude or nearly nude activities prohibited
  
- 110.99 Penalty

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ALCOHOL  
BEVERAGE CONTROL

**GENERAL PROVISIONS****§ 110.01 PURPOSE.**

(A) The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverages sales pursuant to KRS 242.185(6) for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of 70% of its gross receipts from the sale of food, pursuant to KRS 242.123 for any 9 or 18 hole regulation golf course that has been approved for the limited sales of alcoholic beverages, pursuant to KRS 242.185(2) for hotels, motels, or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons, and pursuant to KRS 242.020 for any winery that has been established pursuant to a local option election.

(B) To realize this intent, the County of Shelby shall implement this chapter in a manner as to assure that:

(1) Restaurants and dining facilities licensed under this chapter shall seat a minimum of 100 persons and derive a minimum of 70% of their gross receipts from the sale of food as certified by documentation as herein provided. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, shall satisfy this seating requirement. All seating must comply with all fire and safety capacity regulations. The sale of alcoholic beverages shall be accessory to the sale of food and offered only during times in which the licensee's kitchen is open and food service staff is on duty.

(2) Nine and 18 hole golf courses shall have been approved as provided by law for the limited sale of alcoholic beverages pursuant to KRS 242.123.

(3) Hotels, motels, or inns shall contain not less than 50 sleeping units and have dining facilities for not less than 100 persons pursuant to KRS 242.185(2).

(4) Wineries shall have been approved and established pursuant to a local option election.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.02 DEFINITIONS.**

The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

(Ord. 01-20-05, passed 1-20-2009)

**§ 110.03 SCOPE.**

(A) This chapter shall only apply to the sale of malt beverages, wine and distilled spirits by the drink for consumption on the premises of the licensee. Nothing in this chapter shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other ordinance or ordinances of the county or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

(B) The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this chapter except as otherwise lawfully provided herein.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.04 LICENSES; SCOPE.**

Under this chapter a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185(6), KRS 242.123, KRS 242.185(2) and KRS 242.020.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.05 DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

(A) The duties of the office of County Alcoholic Beverage Control Administrator (hereinafter referred to as County A.B.C. Administrator) shall be administered by the County Judge Executive unless he or she shall appoint a County A.B.C. Administrator.

(B) The salary for this office, if any, shall be fixed from time to time by Fiscal Court.

(C) The functions of the County A.B.C. Administrator shall be the same with respect to the County licenses and regulations as the functions of the A.B.C. Board of the Commonwealth of Kentucky (hereinafter referred to as A.B.C. Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the County A.B.C. Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the A.B.C. Board. No regulation of the County A.B.C. Administrator shall become effective until it has first been appropriately approved by the Shelby County Fiscal Court.

(D) No person shall be a County A.B.C. Administrator, an Investigator or an employee of the county under the supervision of the County A.B.C. Administrator, who would be disqualified to be a member of the A.B.C. Board under KRS 241.100. (KRS 241.170).

## Shelby County - Business Regulations

(E) The County A.B.C. Administrator shall have all authority as authorized under KRS Chapters 241 through 244.

(F) Should the County A.B.C. Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require the person to appear in person at the Shelby County Detention Center for the purpose of having his or her fingerprints taken.

(G) The County A.B.C. Administrator for entering upon his or her duties, shall take the oath as prescribed in Ky. Const. § 228, and shall execute a bond with a good corporate surety in the penal sum of not less than \$5,000, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of KRS Chapter 62.

(H) The cost of any necessary bond required under this section shall be borne by the County of Shelby.

(I) Appeals from the orders of the County A.B.C. Administrator may be taken to the state A.B.C. Board by filing with the A.B.C. Board within 30 days a certified copy of the orders of the County A.B.C. Administrator. Matters at issue shall be heard by the A.B.C. Board as upon an original proceeding. Appeals from orders of the County A.B.C. Administrator shall be governed by KRS Chapter 13B.

(Ord. 01-20-05, passed 1-20-2009)

### **§ 110.06 HOURS FOR SALE AND DELIVERY; RESTRICTIONS.**

(A) Upon the licensee being granted a license pursuant to this chapter, it shall not be permitted to sell or dispense these beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(B) Upon a licensee being granted a license for Sunday sales pursuant to this chapter, it shall be permitted to sell or dispense alcoholic beverages only between the hours of 1:00 p.m. and 9:00 p.m. on Sundays.

(C) All delivery of alcoholic beverages in the County shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

**(D) The licensee shall not sell or dispense any alcoholic beverages during the hours that the polls are open on any regular or primary election day.**

**(E) The licensee shall remain closed during the hours the polls are open on any regular or primary election day, unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.**

**(Ord. 01-20-05, passed 1-20-2009)**

**§ 110.07 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.**

(A) No gambling or game of chance, unless otherwise authorized by the Commonwealth of Kentucky, shall be permitted in any form on the licenses premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on the premises.

(B) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Shelby County, as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Sheriff or the County A.B.C. Administrator shall have the authority to confiscate any and all radio receiving apparatus.

(C) The licensee shall be responsible for maintaining security on his or her premises, including providing adequate outside lighting to permit customers to utilize the parking area, and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(D) It shall be unlawful for the licensee under this chapter who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(E) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(F) (1) The licensee shall display at all times in a prominent place, a sign at least 8 inches by 11 inches in 30-point or larger type which states as follows:

(2) Persons under the age of 21 are subject to a fine of up to \$100 if they:

(a) Enter licensed premises to buy, or have served to them, alcoholic beverages;

(b) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages; or

(c) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(G) The licensee, before commencing any business for which a license has been issued, shall post and display the license at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.



(H) (1) The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least 1 inch high, supplied by the A.B.C. Commission, and with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(3) A person who violates this section shall be subject to a fine of not less than \$10 nor more than \$50. (KRS 243.895.)

(I) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(J) No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(K) (1) No licensee shall knowingly employ in connection with his or her business, in any capacity whatsoever, any person who:

(a) Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last 2 years;

(b) Is under the age of 20 years who will be serving alcoholic beverages.

(c) Within 2 years prior to the date of his or her employment, has had any County license under this chapter revoked for cause.

(2) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

(L) All restaurants and dining facilities shall distribute alcoholic beverages only during times in which their kitchen is open and their food staff is on duty.

(M) The licensee shall only distribute alcoholic beverages during times in which the licensee's kitchen and food service staff are on duty.

(N) All alcoholic beverages must be consumed on the premises.

(O) No licensee shall require a minimum cover charge or charge admission to the premises.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.08 SUNDAY SALES.**

(A) *Declaration of economic hardship and need to sell alcoholic beverages by the drink.* The sale of alcoholic beverages by the drink for consumption on the premises shall be permitted by hotels, motels, or inns which are licensed for the sale of alcoholic beverages and which contain not less than 50 sleeping units and have dining facilities for not less than 100 persons.

(B) *Authorization for Sunday sales.* The sale of alcoholic beverages by the drink for consumption upon the premises shall be permitted on Sundays from 1:00 p.m. until 9:00 p.m. by restaurants and dining facilities, including restaurants operated by, and located within private clubs, which are licensed for the sale of alcoholic beverages, and which have dining facilities with a minimum seating capacity of 100 people at tables and which receive at least 70% or more of their gross annual receipts from the sale of food, at wineries, at any 9 or 18-hole golf course that has been approved for the limited sale of alcoholic beverages and at hotels, motels, or inns which are licensed for the sale of alcoholic beverages and that contain not less than 50 sleeping units and have dining facilities for not less than 100 persons. (Ord. 03-03-07, passed 3-3-2009)

**§ 110.09 ENFORCEMENT.**

All certified law enforcement officers and the County A.B.C. Administrator are authorized to enforce this chapter for alleged violations. (Ord. 01-20-05, passed 1-20-2009)

**§ 110.10 EFFECTIVE DATE.**

This chapter shall take effect upon its passage and approval and publications as required by law. (Ord. 01-20-05, passed 1-20-2009)

**LICENSING**

**§ 110.20 APPLICATION.**

(A) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements of KRS Chapter 424.

(1) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a

**Shelby County - Business Regulations**

corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(B) All licenses granted under this chapter shall be approved by the County A.B.C. Administrator. Applications for the issuance of new license and for renewals of existing licenses shall be in writing and upon the forms provided by the A.B.C. Board and the County of Shelby, as amended and supplemented from time to time.

(C) (1) The application shall be verified and shall set forth in detail the information concerning the applicant and the premises for which the license is sought as required by the KRS, the A.B.C. Board and the County of Shelby including as follows:

(a) Name and address;

(b) Nature of interest;

(c) Whether or not a citizen of the United States;

(d) Date of birth;

(e) Date residence was established in Kentucky, if a resident of Kentucky. If Shelby County resident, indicate when residence was established;

(f) Whether or not he or she has any interest in any other license or corporation or partnership holding a license in any other state or province;

(g) Extent of stock ownership; and

(h) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(2) Each application shall be accompanied by a certified check, or postal or express money order for the license fee. Promptly upon receipt thereof the Shelby County A.B.C. Administrator shall transmit the same to the County Treasurer for deposit into the appropriate designated account.

(D) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the Shelby County A.B.C. Administrator.

(E) All county licenses shall be in a form as may be prescribed by the County Fiscal Court and shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license; and
- (7) A Statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(F) All licenses approved by the County A.B.C. Administrator and issued by the County of Shelby shall begin on January 1 of any year and shall expire on December 31.

(G) The renewal by the County A.B.C. Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

(H) Any licenses issued after July 1 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of 6 months.

(I) In addition, any other penalties allowed by this chapter or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the County shall not be required to refund any portion of the license fee.

(Ord. 01-20-05, passed 1-20-2009)

**§ 110.21 FEES.**

(A) The annual County License fee for a limited restaurant drink license and a golf course license shall be \$600 with an annual renewal fee of \$400. The county, with approval of the Fiscal Court, may increase this fee if allowed by KRS.

(B) The annual Special Sunday Retail License for a limited restaurant, hotel, motel or inn drink license, winery license and golf course license shall be \$300 in accordance with KRS 243.060. The county, with approval of the Fiscal Court, may increase this fee if allowed by KRS.

(C) The County A.B.C. Administrator shall transmit fees upon collection to the County Treasurer to be deposited into the appropriate designated account. County licenses shall be issued by the County A.B.C. Administrator upon receipt of notice from the A.B.C. Board Administrator of the finality of appeal or protest permitted upon the license pursuant to the provisions of KRS 243.360, and the fact the A.B.C. Board Administrator has approved the applicant's state application.  
(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.22 REFUND OF LICENSE FEES.**

Should any licensee under this chapter be prohibited from conducting this business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the county shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on this business if the licensee provides sufficient proof to the County A.B.C. Administrator that the period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee or agent or employee of the licensee.  
(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.23 LOST OR DESTROYED LICENSE.**

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the County A.B.C. Administrator after he or she shall be satisfied as to the facts, provided, however, that the person applying for this duplicate license shall pay a fee of \$10 for issuing the duplicate.  
(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.24 TEMPORARY CLOSING.**

In the course of any 1 day of operation of a licensed premise should multiple violations of this chapter or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the County Sheriff or other law enforcement agency, any subsequent multiple violations shall be reported to the County A.B.C. Administrator by the Sheriff or other law enforcement agency. The County A.B.C. Administrator shall, in the interest of public health, safety, morals and welfare, direct the County Sheriff or other law enforcement agency to temporarily suspend the alcohol beverage license or licenses of the offending entity for the remaining hours of the day in question by locking the premises of the offending entity after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the County A.B.C. Administrator; which, except as otherwise provided herein or pursuant to other statute or ordinance, shall occur within 3 business days subsequent to the temporary suspension.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.25 REVOCATION OR SUSPENSION.**

(A) Any license may be revoked or suspended by the County A.B.C. Administrator if the licensee shall have violated any of the provisions of KRS Chapters 241, 243 or 244, or any rule or regulation of the A.B.C. Board or of the Department of revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if the license shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the County heretofore in existence or authorized by the terms of KRS Chapters 241, 243 and 244 to be created, referred to irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any license may be revoked or suspended for any cause which the County A.B.C. Administrator in the exercise of his or her sound discretion deems sufficient.

(B) A license may be revoked for any of the reasons for which the County A.B.C. Administrator would have been required to refuse a license if the facts had been known.

(C) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises license;

(2) Making any false, material statements in an application for a license;

(3) If, within a period of 2 consecutive years, any licensee or any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of 2 violations of the terms and provisions of KRS Chapters 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within that period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of 1 felony and 1 misdemeanor;

(4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter or Acts of Congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof;

(5) Revocation of any license granted under any Act of Congress relative to the regulation or manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations; and

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.26 NOTICE TO LICENSEE; SURRENDER OF LICENSE; HEARING.**

(A) Within 3 days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the County A.B.C. Administrator. If the revoked license is not forthwith surrendered by the licensee, the County Sheriff or other law enforcement agency, at the request of the County A.B.C. Administrator, shall immediately cause 1 of its officers to take physical possession of the license and return it to the County A.B.C. Administrator.

(B) When a license has been revoked, the former licensee may, with prior approval of the County A.B.C. Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(C) Appeal from the decision of the County A.B.C. Administrator shall be to the Kentucky A.B.C. Board.

(D) If a license is revoked or suspended by an order of the County A.B.C. Administrator, the licensee shall at once suspend all operations authorized under his or her license.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.27 TRANSFER OR ASSIGNMENT.**

No license issued under this chapter shall be transferred or assigned either as to licensee or location.  
(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.28 REFUSAL OF LICENSE.**

(A) A county license shall be refused:

(1) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state license according to KRS 243.450, 243.490 and 243.500,

as well as violation of any county ordinance regarding alcohol beverage licensing, sales or the administration thereof;

- (2) If the applicant has done any act for which a revocation of license would be authorized; or
- (3) If the applicant has made any false material statement in his or her application.

(B) A license (new issuance or renewal) may be refused by the County Administrator for any reason which he or she, in the exercise of his or her sound discretion, may deem sufficient.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.29 REVIEW OF LICENSE.**

(A) Every restaurant, dining facility, club, hotel, motel, inn, winery and regulation 9 or 18-hole golf course that has been approved for the limited sales of alcoholic beverages that is licensed to sell alcoholic beverages by the drink that sells food shall file reports with the County Alcoholic Beverage Control Administrator verifying the gross alcoholic beverage sales and gross food sales on a semi-annual basis. The first report shall be due on or before January 15 and the second report shall be due on or before July 15.

(B) Failure to provide the mandatory reports required herein shall result in the immediate suspension of the offending entity's alcoholic beverage license or licenses. The suspension shall remain in force until such time as the offending entity fully complies with the requirements of this section.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.30 CHANGE OF INFORMATION.**

(A) Since some of the licenses issued by the County are in the name of a corporation, it is necessary that stock ownership changes in the corporation be reported to the County A.B.C. Administrator. The County A.B.C. Administrator can therefore investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(B) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures 10% of the outstanding stock. Transfer of more than 10% of the total stock shall require a new license.

(C) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:

- (1) Name and address;



- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Shelby County resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license in any other state or province;
- (7) Extent of stock ownership; and
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(D) This information shall be filed with the County A.B.C. Administrator as an amendment of application pursuant to which the license was granted.  
(Ord. 01-20-05, passed 1-20-2009)

### § 110.31 DORMANCY.

(A) It is necessary that a licensee actually conduct the business authorized by that license or else the license will be declared dormant and become null and void after 90 days. That is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(B) Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90-day period, the license shall be surrendered to the County A.B.C. Administrator.

(C) Provisions of division (A) above, shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. The licensee shall furnish to the County A.B.C. Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the 90 days of inactivity, for any of the reasons set forth herein, and the County A.B.C. Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license

period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during this period; provided, however, no license shall be considered valid unless business is conducted thereunder with 12 months from the date of notice to the County A.B.C. Administrator. An extension may not extend beyond the renewal date but may be for certain times as the County A.B.C. Administrator deems appropriate in exercise of his or her sound discretion.

(D) All renewal licenses must be on file with the County A.B.C. Administrator within 30 days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether the acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that the licensee shall file a written verified statement no less than 20 days from the expiration date of the license, setting forth these facts, and that the County A.B.C. Administrator is hereby authorized to extend the time for filing of renewal of the license for a reasonable length of time within the sound discretion of the County A.B.C. Administrator; provided, however, the licensee shall pay a license fee from the expiration date of the former license or licenses. This license fee shall not be payable until application is made for the transfer of the license to a new location.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.32 APPROVAL OF PREMISES.**

(A) The County A.B.C. Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the city building inspector, and any and all other inspections required by the Kentucky Building Code.

(B) Upon the initial application for an alcoholic beverage license, the Shelby County ABC Administrator shall not grant the license under this chapter to any applicant until the applicant and the applicant's place of business have been approved by the Board of Health and the fire authority having jurisdiction. Upon renewal of an alcoholic beverage license, the requirement of approval by the Board of Health and the fire authority having jurisdiction before issuance will be waived if the applicant's business has been approved by the Board of Health and fire authority having jurisdiction during the licensing period.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.33 DELINQUENT TAXES OR FEES.**

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the county at the time of issuing the license; nor shall

any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the county. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the county at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.34 BOOKS, RECORDS AND REPORTS.**

(A) Every licensee under this chapter shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the A.B.C. Board. The books and records shall be available at all reasonable times for inspection by the County A.B.C. Administrator and the county employees who may assist the County A.B.C. Administrator in his or her review.

(B) For the purpose of assisting the County A.B.C. Administrator in enforcement of this chapter, every licensee required by statute to report to the A.B.C. Board shall provide a copy of the reports to the County A.B.C. Administrator.

(Ord. 01-20-05, passed 1-20-2009)

#### **§ 110.35 MANDATORY STAR TRAINING FOR ALL PERSONS EMPLOYED TO SERVE ALCOHOLIC BEVERAGES.**

(A) All persons employed to serve alcoholic beverages shall be required to successfully complete the STAR training program administered by the state Alcoholic Beverage Control Board.

(B) Every restaurant, dining facility, club, hotel, motel, inn, winery and 9 or 18-hole regulation golf course that has been approved for the limited sales of alcoholic beverages that is licensed to sell alcoholic beverages by the drink shall file with the County Alcoholic Beverage Control Administrator verification that each employee authorized to serve alcoholic beverages has successfully completed the STAR training program administered by the state Alcoholic Beverage Control Board.

(C) Every restaurant, dining facility, club, hotel, motel, inn, winery and regulation 9 and 18-hole golf course that has been approved for the limited sale of alcoholic beverages that is licensed to sell alcoholic beverages by the drink shall provide verification to the County Alcoholic Beverage Control Administrator that each employee authorized to serve alcoholic beverages has successfully completed the STAR training program within 30 days of each employee having successfully completed the STAR training program and shall thereafter, on or before January 15, provide annual verification to the County Alcoholic Beverage Control Administrator that all employees authorized to serve alcoholic beverages have successfully completed the STAR training program.

(D) Failure to provide the required verification shall result in the immediate suspension of the offending entity's alcoholic beverage license or licenses. The suspension shall remain in force until such time as the offending entity fully complies with requirements of this section.  
(Ord. 01-20-05, passed 1-20-2009)

**§ 110.36 NUDE OR NEARLY NUDE ACTIVITIES PROHIBITED.**

(A) No person shall perform or appear on the premises of any establishment licensed to sell wine, distilled spirits or malt beverages by the drink (hereafter "licensed premises") in such a manner or attire as to expose to public view of the patrons of the establishment at any time the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, or male genitals in a discernible, turgid state, even if completely and opaquely covered, or employ any device or covering intended to give the appearance of or to simulate male or female genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

(B) No licensee holding a license for the sale of wine, distilled spirits or malt beverages by the drink and no employee or agent of the licensee shall permit any person to perform or appear on its licensed premises in a manner or attire as to expose to public view of the patrons of the establishment at any time the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, or human or simulated male genitals in a discernible, turgid state, even if completely and opaquely covered, or permit any person to employ any device or covering intended to give the appearance of or to simulate male or female genitals, public region, buttocks or female breast below a point immediately above the top of the areola.  
(Ord. 01-20-05, passed 1-20-2009) Penalty, see § 110.99

**§ 110.99 PENALTY.**

(A) The following penalties shall be in addition to any criminal prosecution instituted in Shelby County District Court against an alleged violator and fines hereunder shall be payable to the County A.B.C. Administrator.

(B) The County A.B.C. Administrator may assess a fine of not more than \$500 per violation. This payment of the fine shall be transmitted to the County Treasurer to be deposited in the appropriate designated account.

(C) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than \$100 nor more than \$200 or imprisoned in the county jail for not more than 6 months, or both; and for the second and each

**Shelby County - Business Regulations**

subsequent violation, he or she shall be fined not less than \$200 nor more than \$500, or imprisoned in the county jail for not more than 6 months, or both. The penalties provided for in this section shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(Ord. 01-20-05, passed 1-20-2009)

RECEIVED  
2012 NOV 13 AM 10 50  
ALCOHOL  
BEVERAGE CONTROL

**A RESOLUTION DECLARING THAT THE REGULATION  
OF ALCOHOL SALES BY RESTAURANTS IS NECESSARY**


WHEREAS, a local option election was held in Shelby County, Kentucky, on November 7, 2000, to take the sense of the people as to the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food; and

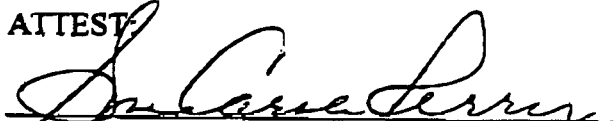
WHEREAS, the ballot proposition concerning the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food passed by a vote of 6,811 to 4,077;

NOW THEREFORE, BE IT RESOLVED, by the County of Shelby, that in order to benefit the public, the Shelby County Fiscal Court declares that regulation of the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food is necessary.

BE IT FURTHER RESOLVED, that pursuant to KRS 241.110, the Shelby County Judge/Executive shall constitute the county alcoholic beverage control administrator for Shelby County.

APPROVED at a regular meeting of the Fiscal Court of Shelby County, Kentucky, this the 21<sup>st</sup> day of November, 2000.

  
BOBBY STRATTON,  
Shelby County Judge/Executive

ATTEST  
  
SUE CAROLE PERRY, Shelby County Clerk

DOCUMENT NO: 100073  
RECORDED ON: NOVEMBER 22, 2000 04:25:39PM  
COUNTY CLERK: SUE CAROLE PERRY  
COUNTY: SHELBY COUNTY  
DEPUTY CLERK: SHELLEY MITCHELL

BOOK 01999 PAGES 210 - 210

**EXECUTIVE ORDER**

WHEREAS, KRS 242.185(6) allows for a local option election in a county in which prohibition is in effect on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food, and

WHEREAS, in accordance with KRS 242.020, a petition for such election has been filed with the Clerk of the Shelby County Court signed by the required number of constitutionally qualified voters in Shelby County, Kentucky, and

WHEREAS, that petition has been examined by the undersigned Shelby County Judge/Executive (with the assistance of Sue Carole Perry, Clerk of the Shelby County Court) and has been found to comply with the requirements of KRS 242.020, and

WHEREAS, prohibition is in effect in Shelby County, Kentucky.


IT IS HEREBY ORDERED and DIRECTED as follows:

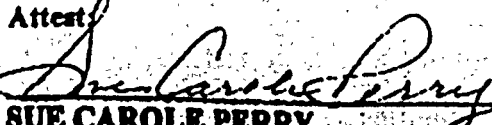
1. That a local option election shall be held in Shelby County, Kentucky, on November 7, 2000, to take the sense of the people as to the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food.

2. The form of the proposition on the ballot shall state:

"Are you in favor of the sale of alcoholic beverages by the drink in Shelby County, Kentucky at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?"

SO ORDERED this the 18 day of September, 2000.

  
BOBBY STRATTON,  
Shelby County Judge/Executive

Attest  
  
SUE CAROLE PERRY,  
Clerk of the Shelby County Court

DOCUMENT NO: 176383  
RECORDED ON: SEPTEMBER 27, 2000 02:18:19PM  
COUNTY CLERK: SUE CAROLE PERRY  
COUNTY: SHELBY COUNTY  
DEPUTY CLERK: SUE CAROLE PERRY  
BOOK 01999 PAGES 149 - 190

COMMONWEALTH OF KENTUCKY  
SHELBY COUNTY FISCAL COURT  
ORDINANCE NO. \_\_\_\_\_, SERIES 2003

ALCOHOLIC BEVERAGE CONTROL ORDINANCE

BE IT ORDAINED BY Shelby County, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

**ARTICLE I – IN GENERAL**

**Purpose:**

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185(6) for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food and pursuant to KRS 242.123 for any nine (9) or eighteen (18) hole regulation golf course that has been approved for the limited sales of alcoholic beverages. To realize this intent, the County of Shelby shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(c) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.



(d) Nine (9) or eighteen (18) hole golf courses that have been approved for the limited sale of alcoholic beverages pursuant to KRS 242.123.

**DEFINITIONS:**

The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

**SCOPE:**

This Ordinance shall only apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the County or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

Adoption of State Alcoholic Beverage Control law—The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

**ARTICLE II – LICENSES**

**Scope:**

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185 (6) and KRS 242.123.

**ARTICLE III – DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

- (a) The duties of the office of County Alcoholic Beverage Control Administrator (hereinafter referred to as County ABC Administrator) are shall be administered by the County Judge Executive unless he/she shall appoint a County ABC Administrator.
- (b) The salary for said office, if any, shall be fixed from time to time by Fiscal Court.
- (c) The functions of the County ABC Administrator shall be the same with respect to the County licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the County ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the County ABC Administrator shall become effective until it has first been appropriately approved by the Shelby County Fiscal Court.
- (d) No person shall be a County ABC Administrator, an Investigator or an employee of the County under the supervision of the County ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100. (KRS 241.170).
- (e) The County ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.
- (f) Should the County ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he shall have the authority to require such person to appear in person at the Shelby County Detention Center for the purpose of having his or her fingerprints taken.

(g) The County ABC Administrator for entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.020 of the Kentucky Revised Statutes et seq.

The cost of any necessary bond required under this section shall be borne by the County of Shelby.

(i) Appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the County ABC Administrator. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the County ABC Administrator shall be governed by KRS Chapter 13B.

#### **ARTICLE IV – APPLICATION/LICENSE**

(a) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements of KRS Chapter 424.

(1) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(b) All licenses granted under this Ordinance shall be approved by the County ABC Administrator. Applications for the issuance of new license and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the County of Shelby, as amended and supplemented from time to time.

(c) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the County of Shelby including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Shelby County resident, indicate when residence was established.
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license in any other state or province.
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

Each application shall be accompanied by a certified check, or postal or express money order for the license fee. Promptly upon receipt thereof the Shelby County ABC Administrator shall transmit the same to the County Treasurer for deposit into the appropriate designated account.

(d) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the Shelby County ABC Administrator.

(e) All County licenses shall be in such form as may be prescribed by the County Fiscal Court and shall contain:

- (1) The name and address of the licensee
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;

(6) The expiration date of the license;

(7) A Statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(f) All licenses approved by the County ABC Administrator and issued by the County of Shelby shall begin on January 1 of any year and shall expire on December 31.

(g) The renewal by the County ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(h) Any licenses issued after July 1 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of six months.

(i) In addition, any other penalties allowed by this Ordinance or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the County shall not be required to refund any portion of the license fee.

**FEES:**

(a) The annual County License fee for a limited restaurant drink license and a golf course license shall be \$600.00 with an annual renewal fee of \$400.00. The County, with approval of the Fiscal Court, may increase this fee if allowed by Kentucky Revised Statutes.

(b) The County ABC Administrator shall transmit fees upon collection to the County Treasurer to be deposited into the appropriate designated account. County Licenses shall be issued by the County ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

#### **REFUND OF LICENSE FEES:**

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the County shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on said business if the licensee provides sufficient proof to the County ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee or agent or employee of the licensee.

#### **LOST OR DESTROYED LICENSE:**

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the County ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

#### **TEMPORARY CLOSING:**

In the course of any one day of operation of a licensed premise should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the County Sheriff or other law enforcement agency, such reoccurrence shall be reported to the County ABC Administrator by the Sheriff or other law enforcement agency. The County ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the County Sheriff or other law enforcement agency to temporarily suspend the license in question for the remaining hours of the day in question by

locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the County ABC Administrator, such review shall occur on the next business day.

**REVOCATION OR SUSPENSION:**

(a) Any license may be revoked or suspended by the County ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the department of revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such license shall have violated or shall violate any act of congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the County heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to irrespective or whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the County ABC Administrator in the exercise of his sound discretion deems sufficient.

(b) A license may be revoked for any of the reasons for which the County ABC Administrator would have been required to refuse a license if the facts had been known.

(c) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises license.

(2) Making any false, material statements in an application for a license.

(3) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in

effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

(4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this Ordinance or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.

(5) Revocation of any license granted under any act of congress relative to the regulation or manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

#### **NOTICE TO LICENSEE; SURRENDER OF LICENSE; HEARING:**

(a) Within three (3) days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his license to the County ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the County Sheriff or other law enforcement agency, at the request of the County ABC Administrator, shall immediately cause one of its officers to take physical possession of the license and return it to the County ABC Administrator.

(b) When a license has been revoked, the former licensee may, with prior approval of the County ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.



(c) Appeal from the decision of the County ABC Administrator shall be to the Kentucky ABC Board.

(d) If a license is revoked or suspended by an order of the County ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

**TRANSFER OR ASSIGNMENT:**

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location.

**REFUSAL OF LICENSE:**

A County license shall be refused:

(a) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state license according to KRS 243.450, 243.490 and 243.500, as well as violation of any county ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(b) If the applicant has done any act for which a revocation of license would be authorized; or

(c) If the applicant has made any false material statement in his application.

A license (new issuance or renewal) may be refused by the County Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

**REVIEW OF LICENSE:**

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant KRS 242.185(6) under this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicant's business income is earned from the sale of food.

This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly Occupational Tax fee filings.

This information shall consist of a certificate from the licensee. This certificate shall state:

"I hereby submit the pertinent records of \_\_\_\_\_, Licensee under Ordinance No. \_\_\_\_\_, Series 2003, and certify that the Licensee earned at least seventy (70%) percent of its gross receipts from the sale of food during the quarter ending \_\_\_\_\_. The Licensee derived \_\_\_\_\_% of its gross sales from food and \_\_\_\_\_% of its gross receipts from alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.

**CHANGE OF INFORMATION:**

- (a) Since some of the licenses issued by the County are in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the County ABC Administrator. The County ABC Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- (b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- (c) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:

- (1) Name and address;
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- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Shelby County resident, indicate when residence was established.
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license in any other state or province.
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

This information shall be filed with the County ABC Administrator as an amendment of application pursuant to which the license was granted.

**DORMANCY:**

- (a) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.
- (b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period, the license shall be surrendered to the County ABC Administrator.
- (c) Except that the provisions of subsection (a) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, and act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the County ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the ninety (90) days of inactivity, for any

of the reasons set forth herein, and the County ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder with twelve (12) months from the date of notice to the County ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the County ABC Administrator deems appropriate in exercise of his sound discretion

(d) All renewal licenses must be on file with the County ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and that the County ABC Administrator is hereby authorized to extend the time for filing of renewal of such license for a reasonable length of time within the sound discretion of the County ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

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**APPROVAL OF PREMISES:**

The County ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector, and any and all other inspections required by the Kentucky Building Code.

**DELINQUENT TAXES OR FEES:**

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the County at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the County. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the county at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

**BOOKS, RECORDS AND REPORTS:**

- (a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the County ABC Administrator and such County employees who may assist the County ABC Administrator in his review.
- (b) For the purpose of assisting the County ABC Administrator in enforcement of this Ordinance, every licensee required by statute to report to the ABC Board shall provide a copy of such reports to the County ABC Administrator.
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## **ARTICLE V – HOURS FOR SALE AND DELIVERY; RESTRICTIONS**

- (a) Upon the licensee being granted a license pursuant to this Ordinance, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.
- (b) The licensee may not sell or dispense alcoholic beverages during the twenty-four (24) hours of a Sunday unless specifically authorized by statute.
- (c) All delivery of alcoholic beverages in the County shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.
- (d) The licensee shall not sell or dispense any alcoholic beverages during the hours that the polls are open on any regular or primary election day.

The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open.

KRS 244.290.

## **ARTICLE VI – CONDITIONS, PROHIBITIONS AND RESTRICTIONS**

### **CONDITIONS, PROHIBITIONS AND RESTRICTIONS:**

- (a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licenses premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.
- (b) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Shelby County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the

Sheriff or the County ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or larger type which states as follows:

*Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:*

- 1. Enter licensed premises to buy, or have served to them, alcoholic beverages.*
- 2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.*
- 3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.*

(h) The licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.

The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(i) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
3. Within two (2) years prior to the date of his employment, has had any County license under this Ordinance revoked for cause.



Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

(m) All persons who shall be serving alcoholic beverages shall undergo any training required by the state ABC Office, the cost of which shall be the responsibility of the licensee.

(n) The licensee shall only distribute alcoholic beverages during times in which the licensee's kitchen and food service staff are on duty.

(o) All alcoholic beverages must be consumed on the premises.

(p) No licensee shall require a minimum cover charge or charge admission to the premises.

## **ARTICLE VII – ENFORCEMENT**

### **ENFORCEMENT:**

County Sheriff's deputies and the County ABC Administrator are authorized to enforce this Ordinance for alleged violations.

### **PENALTIES:**

The following penalties shall be in addition to any criminal prosecution instituted in Shelby County District Court against an alleged violator and fines hereunder shall be payable to the County ABC Administrator.

The County ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the County Treasurer to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent

violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

#### **ARTICLE VIII – SEVERABILITY**

If any portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.

#### **ARTICLE IX – EFFECTIVE DATE**

This ordinance shall take effect upon its passage and approval and publications as required by law.

BE IT FURTHER ORDAINED that the Judge Executive of Shelby County and/or his designate, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 2nd day of December, 2003.

READ, ADOPTED AND APPROVED, this 16th day of December, 2003.

\_\_\_\_\_  
ROB ROTHENBURGER, JUDGE/EXECUTIVE

ATTESTED TO:

\_\_\_\_\_  
SUE CAROLE PERRY, COUNTY CLERK