COMMISSIONERS' ORDINANCE NO. _____

AN ORDINANCE AMENDING COVINGTON CODE OF ORDINANCES SEC. 111.021 ALLOWING THE SALE OF DISTILLED LIQUOR, WINE, AND MALT BEVERAGES BY THE DRINK BEGINNING AT 9:00 A.M. ON SUNDAYS.

* * * *

WHEREAS, Kentucky alcoholic beverage control laws allow regulation of Sunday sales by local governments; and

WHEREAS, Chapter 111 of the Covington Code of Ordinances allows the sale of: (i) malt beverages by the drink or package on Sundays from the hours of 11:00 a.m. Sunday until 1:00 a.m. Monday, (ii) wine and distilled spirits by the package from 11:00 a.m. Sunday until 1:00 a.m. Monday, and (iii) wine and distilled spirits by the drink from 11:00 a.m. Sunday until 1:00 a.m. Monday, if a special permit is obtained; and

WHEREAS, several proprietors of local businesses have requested permission to serve alcoholic beverages at bar and restaurants earlier than 11:00 a.m. on Sundays; and

WHEREAS, other cities throughout the Commonwealth of Kentucky have allowed the sale of certain alcoholic beverages on Sunday and earlier than 11:00 a.m.; and

WHEREAS, the Board of Commissioners held a public hearing on September 12, 2017 to accept public input on the proposed revisions to the hours of sale ordinance; and

WHERAS, after receiving public comment, the Board of Commissioners finds that it is in the City's best interest to allow earlier sales of alcoholic beverages on Sunday in those businesses which sell alcohol by the drink, such as restaurants, bars, and hotels.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

§ 111.021 HOURS OF OPERATION.

(A) A premises licensed to sell distilled spirits or wine at retail by the drink shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m. or between the hours of 1:00 a.m. Sunday, and 6:00 a.m. Monday, and no person shall be permitted to remain within the licensed premises between these hours other than owners, employees or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair.

(B) Malt beverages by the drink or by the package shall not be sold between the hours of 1:00 a.m. and 6:00 a.m., Monday through Saturday, or between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m. and 6:00 a.m. Monday through Saturday, or between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(D) No holder of a distributor's license shall distribute and sell by wholesale any distilled spirits, wine, or malt beverages between the hours of 7:00 p.m. and 6:00 a.m., except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight. No holder of a distributor's license shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(E) Exceptions.

(1) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of ~~11:00~~ 9:00 a.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink and/or wine by the drink.

(2) Premises for which there has been granted a Nonquota Type 4 Retail Malt Beverage Drink license shall be permitted to serve malt beverages by the drink on Sunday from 9:00 a.m. until 1:00 a.m. on the following Monday.

~~(2)~~(3) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1½ hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine by the drink, so long as the premises are properly licensed to do so.

Section 2

This ordinance shall take effect and be in full force when passed and recorded according to law.

_____
VICE MAYOR

ATTEST:

_____
CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)

COMMISSIONERS' ORDINANCE NO. O-36-13

AN ORDINANCE AMENDING THE ALCOHOLIC BEVERAGES SUBCHAPTER OF CHAPTER 111 OF THE COVINGTON CODE OF ORDINANCES TO PROVIDE FOR UPDATED ALCOHOLIC BEVERAGE LICENSES AND FEES THEREFOR, TO ESTABLISH HOURS OF OPERATION FOR LICENSED BUSINESSES, TO AMEND THE PROCEDURES AND CONDITIONS RELATED TO THE ISSUANCE OF 2:30 A.M. PERMITS, AND TO REPEAL AND AMEND OBSOLETE PROVISIONS OF THE SUBCHAPTER.

* * * *

WHEREAS, Senate Bill 13 (2013 Ky. Acts Ch. 121) was enacted into law during the 2013 Regular Session of the Kentucky General Assembly and became effective June 25, 2013; and

WHEREAS, Senate Bill 13 necessitates the amendment of the City's ordinances relating to alcoholic beverages in order to bring City alcoholic beverage licenses into compliance with respect to license types and fees; and

WHEREAS, the City's ordinance governing hours of operation of businesses licensed to sell alcoholic beverages is in need of clarification; and

WHEREAS, the Board of Commissioners desires to accommodate riverfront economic development to allow 2:30 a.m. permits in the riverfront development areas designated CRG and CRL; and

WHEREAS, the amendments mandated by Senate Bill 13 have provided the City with an opportunity to review its ordinances governing alcoholic beverages and to repeal and amend obsolete provisions thereof.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 111.020 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.020 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Every liquid or solid, whether patented or not, containing alcohol, and capable of being consumed by human beings. It includes every

spirituous or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

~~***BREW-ON-PREMISES ESTABLISHMENT.*** Any establishment that has been granted a license pursuant to the provisions of § 111.030 to provide ingredients, equipment, and assistance permitted by § 111.030 to a customer to brew malt beverages on the premises of the establishment.~~

~~***BREWER.*** Any person who owns, occupies, carries on, works, or conducts any brewery either by himself, herself or by his or her agent.~~

~~***BREWERY.*** Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mashroom, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverage is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.~~

~~***BUILDING CONTAINING LICENSED PREMISES.*** The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.~~

CITY ADMINISTRATOR. The City Alcoholic Beverage Control Administrator.

CUSTOMER. Any person at least 21 years old.

DISTILLED SPIRITS or ***SPIRITS.*** Any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

~~***DISTILLERY.*** Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.~~

~~***DISTRIBUTOR.*** Any person who distributes malt beverages for the purpose of being sold at retail.~~

MALT BEVERAGES. Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242.

~~***NONPROFIT.*** These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).~~

~~***RETAILER.*** Any person who sells at retail any alcoholic beverage for the sale of which a license is required.~~

SALE. Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

WINE. The product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake.

Section 2

Section 111.021 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.021 HOURS OF OPERATION.

(A) A ~~licensed~~ premises licensed to sell distilled spirits or wine at retail by the drink shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m. or between the hours of 1:00 a.m., Sunday and 6:00 a.m., Monday, and no person shall be permitted to remain within the licensed premises between these hours ~~the hours of 1:00 a.m. and 6:00 a.m.~~ other than ~~bar~~ owners, employees, or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair.

(B) Malt beverages by the drink or by the package shall not be sold between the hours of 1:00 a.m. and 6:00 a.m., Monday through Saturday, or between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m. and 6:00 a.m., Monday through Saturday, or between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(D) No holder of a Distributor's License shall distribute and sell by wholesale any distilled spirits, wine, or malt beverages between the hours of 7:00 p.m. and 6:00 a.m., except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight. No holder of a Distributor's License shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

~~(D)~~(E) *Exceptions.*

(1) Those premises which have obtained a Special ~~special~~ Sunday Retail ~~retail~~ Drink ~~drink~~ License ~~license~~ may remain open between the hours of 11:00 a.m., Sunday,

and 1:00 a.m., Monday, and may sell distilled liquor by the drink and/or wine by the drink.

(2) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1½ hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine by the drink, so long as the premises are properly licensed to do so.

Section 3

Section 111.024 of the Covington Code of Ordinances entitled "Clubs, Lodges, and Fraternal Orders" is hereby repealed in its entirety.

Section 4

Section 111.025 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.025 LICENSING AND HEARINGS.

(A) *Licenses required; fees.*

(1) *Schedule of licenses and fees.* For the privilege of trafficking in alcoholic beverages in the City, and pursuant to the authority of KRS 243.070, there is hereby established a corresponding City license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby shall be the same as those of the state licenses to which the City licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule, and no person shall engage in any such action, business, or transaction within the City without having first obtained the applicable state and City licenses to do so. The fees for such City licenses shall be as indicated in the following schedule and shall be per annum unless otherwise specified. ~~No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.~~

License	**Statutory Authorization**	**Description of Authorized Business and Transactions**	**Fee**
Distiller's License	KRS 243.070(2)(a)	KRS 243.120	$500
Rectifier's License	KRS 243.070(2)(b)	KRS 243.130	$500
Brewer's License	KRS 243.070(13)(a)	KRS 243.150	$500
Microbrewery License	KRS 243.070(13)(b)	KRS 243.157	$500
Malt Beverage Brew-on-Premises License	KRS 243.070(13)(f)	804 KAR 4:340	$100

Wholesaler's License	KRS 243.070(2)(c)	KRS 243.160; KRS 243.170	$2,000
Malt Beverage Distributor's License	KRS 243.070(13)(c)	KRS 243.180	$300
Quota Retail Package License	KRS 243.070(2)(d)	KRS 243.240	$1,000
Quota Retail Drink License	KRS 243.070(3)(b)	KRS 243.250	$600
Nonquota Type 1 Retail Drink License (NQ1)	KRS 243.070(5)	KRS 243.082	$600
Nonquota Type 2 Retail Drink License (NQ2)	KRS 243.070(6)(b)	KRS 243.084	$600
Nonquota Type 3 Retail Drink License (NQ3)	KRS 243.070(7)	KRS 243.086	$250
Nonquota Type 4 Retail Malt Beverage Drink License (NQ4)	KRS 243.070(13)(e); KRS 243.070(18)	KRS 243.088	$200
Nonquota Retail Malt Beverage Package License (NQ)	KRS 243.070(13)(d); KRS 243.070(18)	KRS 243.280	$200
Supplemental Bar License	KRS 243.070(17)	KRS 243.037	As provided in division (A)(2)(b)
Bottling House or Bottling House Storage License	KRS 243.070(12)	KRS 243.035	$500
Special Temporary License	KRS 243.070(4)(b)	KRS 243.260	$50 per event
Special Temporary Distilled Spirits and Wine Auction License	KRS 243.070(8)	KRS 243.036	$50 per event
Limited Restaurant License	KRS 243.070(14)(b)	KRS 243.034	$600
Limited Golf Course License	KRS 243.070(15)(b)	KRS 243.039	$600
Caterer's License	KRS 243.070(11)	KRS 243.033	$400
Special Sunday Retail Drink License	KRS 243.070(9)	KRS 243.050(2)	$250
Extended Hours Supplemental License	KRS 243.070(10)	KRS 243.050(1)	$400

(2) *Miscellaneous fees.*

(a) The holder of a Nonquota Retail Malt Beverage Package License may obtain a Nonquota Type 4 Malt Beverage Drink License for a fee of fifty dollars ($50) per annum. The holder of a Nonquota Type 4 Malt Beverage Drink License may obtain a Nonquota Retail Malt Beverage Package License for a fee of fifty dollars ($50) per annum.

(b) The fee for each of the first five (5) Supplemental Bar Licenses shall be the same as the fee for the primary drink license. There shall be no charge for each Supplemental Bar License issued in excess of five (5) to the same licensee at the same premises.

(3) *Prorate license fees.*

(a) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(b) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(4)~~(2)~~ *Delinquent financial claims.* No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, assessments, or other financial claims of the City ~~city~~ are delinquent or unpaid.

(B) *License application; contents.*

(1) Any person desiring to engage in any business or transaction in the City referenced in the division (A)(1) licensing schedule ~~engage in the business of distilling, wholesaling spiritous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink~~ shall, before so doing, file with the City Administrator an application on forms provided by the City ~~city~~, which shall be verified and contain the following information:

(a)~~(1)~~ The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(b)~~(2)~~ Whether or not the applicant is a citizen and resident of the state and for what period of time;

(c)~~(3)~~ The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(d)~~(4)~~ The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(e)~~(5)~~ A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the City ~~city~~ relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto; and

(f)~~(6)~~ A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application.~~; and~~

(2)~~(7)~~ If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in

possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) *Location of premises to be licensed.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises that is located on the same street as and within 200 feet of a building occupied exclusively as a school, hospital, or place of worship, without giving a ten-day, written notice to the governing authority of the school, hospital, or place of worship, setting forth the kind of license for which the applicant intends to apply. Such notice must be sent by registered mail through the post office of the United States, and the return registered mail receipt and a copy of the notice shall be attached to the application at the time application is made.

(2) The section shall not apply to a hotel, drug store, or private club which has been bona fide in business as a licensee at the location for not less than one year preceding the passage of the Alcoholic Control Administration Act of 1938.

(3) Measurement of the 200 foot distance referred to shall be taken on the street on which the licensee's premises are located in a straight line from the nearest property line of the real estate on which is located the building used for the school, hospital, or place of worship, to the nearest property line of the real estate on which is located the building for which a license is sought.

(G) *Qualification of licensee.*

(1) No natural person shall become ~~be come~~ a licensee under the provisions of this section who:

(a) ~~(1)~~ Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(b) ~~(2)~~ Is under the age of 21 years; or

(c) ~~(3)~~ Is not an actual bona fide resident of the state, or of the United States.

(2) No partnership, limited partnership, limited liability company, or corporation shall become a licensee under the provisions of this section if any member of the partnership or any of the directors, principal officers, or managers would not qualify as a licensee under division (G)(1)(a) or (b) of this section.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

~~(I) *Prorate license fees.*~~

~~(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.~~

~~(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.~~

~~(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:~~

~~(1) Malt beverages:~~

~~Brewer's license, per annum — $500.00~~

~~Microbrewery license, per annum — $500.00~~

~~Distributor's license, per annum — $300.00~~

~~Retailer's license, per annum — $200.00~~

~~Special temporary license, per month — $12.50~~

~~(2) Distilled spirits and wine:~~

~~Distiller's license, per annum — $500.00~~

~~Rectifier's license, per annum — $500.00~~

~~Blender's license, per annum — $500.00~~

~~Wholesaler's license, per annum — $2,000.00~~

~~Retail package license, per annum — $1,000.00~~

~~Retail drink license, per annum — $600.00~~

~~Special temporary license per week — $21.00~~

~~Special private club license, per annum — $250.00~~

~~Special Sunday retail drink license — $250.00~~

~~Nonresident, special agent or solicitor's license, per annum — $40.00~~

~~Restaurant wine license, per annum — $400.00~~

~~Temporary wine license, per week — $12.50~~

~~Caterer's license, per annum — $400.00~~

~~Supplemental bar license, per annum — $600.00~~

~~(3) Brew-on-Premises~~

~~Brew-on-premises license, per annum — $500.00~~

~~(K) *Retail liquor license includes maltous and vinous liquors.* Where a licensee has been granted a retail license to sell liquor by the drink and has paid the license fee therefor, he or she shall be entitled to a license to sell and dispense maltous or vinous liquors without the payment of any additional fee for the license therefor. In this event, the license to sell and dispense maltous beverages shall be subject to the quota provisions of the city, the same as all other malt beverage retailer's licenses (retail malt beverage licenses).~~

(I)~~(L)~~ *Contents of license.* All licenses issued pursuant to this section ~~§ 111.022~~ shall contain the following information:

(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 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 or suspended at any time pursuant to law.

(J)~~(M)~~ *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of $5.

(K)~~(N)~~ *License revocation or suspension.*

(1) Any license issued pursuant to this section ~~§§ 111.021 et seq.~~ may be revoked or suspended by the City Administrator, after complying with the hearing requirements below, for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) If the licensee makes any false material statements in an application for a license; ~~or~~

(c) If the licensee violates any provisions of the laws of the state, the United States government, or the ordinances of the City ~~city~~, pertaining to alcoholic beverages, their regulation and control;~~.~~

(d) Conviction of the licensee of any felony; ~~or~~

(e) Conviction of the licensee, or his or her agent who controls or operates the licensee's premises, of any offense pertaining to prostitution, illegal gambling, knowingly possessing or receiving stolen property, sale or use of illegal drugs, or the illegal sale or use of controlled substances or prescription drugs; ~~or~~

(f) If the licensee allows the premises to be used as the site for any criminal activity nuisance as defined by § 92.10;

(g) If the licensee allows the premises to be used as the site for any public nuisance as defined in § 92.05;

(h) If licensee allows the premises to be used as the site for a unlicensed sexually oriented business; or

(i) If the licensee is delinquent or in default of an obligation to pay a loan, fine, lien or other financial obligation to the City ~~city~~, then license is subject to suspension until the obligation is satisfied.

(2) The existence of any delinquent or unpaid City ~~city~~ taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(L)~~(O)~~ *Suspension of license.* The City Administrator may, after a hearing, order a suspension of the license for up to 180 days for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the City ~~city~~. The suspended licensee may pay a fine of $50 per day in lieu of the suspension, subject to the approval of the City Administrator. The City Administrator shall issue a written order of such suspension via regular United States mail to the licensee's address indicated on the license.

(M)~~(P)~~ *Issuance of license after revocation.* Any person, partnership, LLC, or other corporate entity who has suffered, or any of its members or partners have suffered, a revocation ~~of a license to do business~~ under the provisions of this section ~~§§ 111.022 *et seq.*~~ shall not again be licensed for that purpose within a period of two years after the date of revocation.

(N)~~(Q)~~ *Conditions of accepting license.* All licenses issued pursuant to this section ~~§§ 111.022 *et seq.*~~ shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the City ~~city~~, at all reasonable hours for the purpose of inspection and search, and for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the City ~~city~~ and the laws of the state.

(2) The licensee holding a license pursuant to this chapter shall not sell any alcoholic beverages ~~spiritous, vinous, or malt liquor~~ behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or ~~wantonly~~ creating a risk through:

(a) Engaging in~~, or allowing customers to engage in,~~ fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose~~.~~; or

(e) Creating a public nuisance; or

(f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or

(g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

(4) Treating, or giving away alcoholic beverages at no cost to the customer, shall be unlawful and is forbidden.

(5) No alcoholic beverages ~~spiritous, vinous, or malt liquors~~ shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed on the premises any alcoholic beverages ~~spiritous or vinous liquors or mixtures thereof~~ during hours when the sale of alcoholic beverages is prohibited. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all alcoholic ~~malt~~ beverages or conspicuously post a sign which indicates that the alcoholic ~~malt~~ beverages are ~~is~~ not available for sale or make the alcoholic ~~malt~~ beverages completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

~~(R) *Registration, photographing, and fingerprinting of employees.*~~

~~(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed.~~

~~(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.~~

~~(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.~~

~~(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.~~

~~(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.~~

~~(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.~~

~~(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.~~

(O)~~(S)~~ *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her City ~~city~~ alcoholic beverage license in dormancy. The obligation to pay license fees to the City ~~city~~ shall continue while any alcoholic beverage license is in dormancy.

(P)~~(T)~~ *Hearings.* Revocation or suspension proceedings shall be governed as follows.

(1) *Notice of hearings.* The City Administrator shall provide written notice, via regular United States mail or hand delivery to the licensee, notice of any hearing related to the possible suspension or revocation of the licensee's alcoholic beverage license. The address provided by the licensee to the City ~~city~~ on its license application shall be deemed the address for notice of hearing. The licensee shall notify the City ~~city~~ of any change of address subsequent to the submission of an application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted a City Hall at least 24 hours prior to the hearing.

(2) *Procedure.*

(a) The City Administrator shall be the hearing officer for any proceedings related to the possible suspension or revocation of any City ~~city~~ alcoholic beverage license.

(b) Any hearing before the City Administrator shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS 13B.080 and 13B.090.

(c) The City Solicitor, or his or her designee, shall represent the City ~~city~~ at the hearing. The licensee has a right to retain counsel for representation at the hearing.

(d) The City Administrator shall issue a written decision, including findings of fact and conclusions of law, within seven days of the conclusion of the hearing.

(3) *Appeals.* Any order of suspension or revocation issued by the City Administrator may be appealed to the State Alcoholic Beverage Control Board within 30 days of the date of the order.

Section 5

Section 111.026 of the Covington Code of Ordinances entitled "Wholesale Distribution and Sales" is hereby repealed in its entirety.

Section 6

Section 111.027 of the Covington Code of Ordinances entitled "Supplemental Retail Drink Liquor License" is hereby repealed in its entirety.

Section 7

Section 111.029 of the Covington Code of Ordinances entitled "Private Club License" is hereby repealed in its entirety.

Section 8

Section 111.030 of the Covington Code of Ordinances entitled "Brew-On-Premises License" is hereby repealed in its entirety.

Section 9

Section 111.031 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) *Establishment.* There is hereby established a City Special Sunday Retail Drink License ~~city special Sunday retail drink license~~, pursuant to the authority granted by KRS 243.070 and KRS 244.290(3)(b).

(B) *Restrictions.* The holder of the Special Sunday Retail Drink License ~~special Sunday package and retail drink license~~ shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City ~~Alcoholic Beverage~~ Administrator. The hours of operation for holders of a Special Sunday Retail Drink License ~~package and~~

~~retail licenses~~ shall be governed by § 111.021 that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the Special Sunday Retail Drink License ~~special Sunday retail drink license~~ shall be as established by this subchapter ~~chapter and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.~~

Section 10

Section 111.032 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.032 2:30 A.M. PERMITS.

(A) *Permit required.* No person shall operate or maintain a business enterprise permitting the sale, exchange, or transfer of distilled spirits, wine, or malt beverages ~~spirituous, vinous, malt, or alcoholic mixtures thereof~~ between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining a 2:30 a.m. permit from the City ~~city~~ Alcoholic Beverage Control Board (ABC Board).

(B) *Eligibility and qualifications of holder and grandfather clause.*

(1) All applications for a 2:30 a.m. permit shall be in writing and made directly to the City Administrator ~~city Alcoholic Beverage Control Board (ABC Administrator)~~ or his or her designee. The City ~~ABC~~ Administrator shall request a ~~background check and~~ criminal history from the Chief of Police or his or her police department designee with respect to the considered applicant's eligibility and the written certification of approval from the Zoning Administrator.

(2) To be eligible for a 2:30 a.m. permit, the applicant must have a current and valid City ~~city~~ and state alcoholic beverage license ~~for the sale of liquor by the drink.~~ of one or more of the following types:

(a) Quota Retail Drink License;

(b) Nonquota Type 1 Retail Drink License (NQ1);

(c) Nonquota Type 2 Retail Drink License (NQ2);

(d) Nonquota Type 3 Retail Drink License (NQ3); or

(e) Nonquota Type 4 Retail Malt Beverage Drink License (NQ4).

(3) Package ~~or malt beverage~~ retail sales licensees, unless the licensee also has a valid City ~~city~~ and state license of the types listed in division (2), ~~liquor by the drink license,~~ shall not be eligible for a 2:30 a.m. permit.

(4) All taxes, fines, outstanding liens, fees and license charges in connection with the applicant's business enterprise due the City ~~city~~, including annual minimum occupational license, must be paid before an applicant shall be considered. Additionally, if the applicant is the recipient of any loan granted or administered by the City ~~city~~, all payments or obligations concerning the loan(s) must be current at the time the application is submitted. However, if there is a member, officer, shareholder or partner of an entity that is an applicant who is in default of an obligation as indicated above, the entity not in default shall not be denied the right to submit an application.

(5) Effective on the passage of this section, no new permit shall be issued without the written certification of the Zoning Administrator on the application that the proposed site requesting issuance of the permit does not abut a residential use in a residential zone, has sufficient customer parking available in the zone where it is located without impacting adjacent zones, and is located within one of the following zones:

(a) Central Business District (CBD)

(b) Commercial-General (CG)

(c) Commercial-Tourist (CT)

(d) Commercial-Community (CC)

(e) Resource Protection (RP), but only when adjacent to a commercial, office, or industrial zone.

(f) Commercial-Neighborhood (CN)

(g) Commercial-Office ~~office~~ (CO)

(h) Commercial-Riverfront (General) (CRG)

(i) Commercial-Riverfront (Limited) (CRL).

(6) No applicant shall be granted a 2:30 a.m. permit who has been convicted of any felony within the last five years or misdemeanor relating to the use of alcoholic beverages within two years prior to submission of application or otherwise is in violation of the provisions of KRS 243.100 *et seq.*

(7) No applicant shall be granted a 2:30 a.m. permit unless the person is an actual resident of the state or a corporation licensed to do business within the Commonwealth of Kentucky.

(8) Persons holding permits prior to the enactment of this section and also those businesses holding a liquor by the drink license and located in the area annexed to the City ~~city~~ by ordinance O-47-76, adopted June 10, 1976, shall be granted the privilege of continued operation without regard to the zoning requirements of division (B)(5) above. All future transfers of existing nightclub permits at the same location will be honored if the transfers comply with the conditions and regulations listed in this section.

(C) *Permit fee.* The fee for a 2:30 a.m. permit shall be $5,000 per year, payable on or before February 1 of each year. If a permittee in good standing is approved by the ABC Board to transfer his or her permit to a new permittee at the same location during the license year, there shall be no additional fee assessed for that license year.

(D) *Proration of fees.* Fees collected for the purchase of 2:30 a.m. permits shall be due and prorated on a monthly basis if the application is received and awarded during the license year.

(E) *Disposition of revenue.* The proceeds of the permit fees collected under this section shall be deposited in the City's ~~city~~'s general fund account.

(F) *Information.* All applications and permits issued pursuant to the provisions of this section shall contain the following:

(1) Name, address, telephone number and e-mail address of applicant (including all officers, stockholders of small corporations (two or fewer ~~to or less~~ stockholders), members of a limited liability company, and/or partners);

(2) Number of the permit;

(3) Type of permit;

(4) Street address of the premises which holds the permit;

(5) The name and address of the owner of the building in which the permit is located;

(6) The expiration date of the permit; and

(7) A statement that the permit shall not be a property right, and that it may be revoked or suspended at any time, pursuant to the law.

(G) *Conditions of permit.* All permits issued pursuant to this section shall be accepted by the applicant subject to the following:

(1) That the premises shall be subject to the entry of police, City ~~city ABC~~ Administrator, law enforcement officers, or other duly authorized representatives of the City ~~city~~ at all reasonable hours for the purposes of inspection and at all times during the operation of the premises.

(2) That the licensed premises shall, at all times, be conducted in an orderly manner and no indecent or criminal conduct shall be allowed at any time, nor shall violations of any law be permitted thereon.

(3) That no spirituous, vinous, or malt liquors shall be sold or dispensed to any minor.

(4) That no ~~No~~ licensee shall sell, give away, furnish, or permit to be consumed on the premises any alcoholic beverages ~~spirituous, vinous, or malt liquors or any mixtures thereof~~ between the hours of 2:30 a.m. and 6:00 a.m., or at any time during the hours of a Sunday after 2:30 a.m. (unless the applicant has obtained a Special Sunday Retail Drink License that allows for sale to begin at 11 a.m. on Sunday)~~, or on any regular or primary election day while the election polling places are open~~. During the time periods referred to herein, no person shall be present on the premises of the establishment licensed for the sale of alcoholic beverages except the owner or his or her authorized employees, contractors and agents.

(5) That the licensee shall not violate any provisions of the laws or ordinances of the United States, the state, or the City pertaining to alcoholic beverages, their regulation, and control.

(H) *Specific regulations for 2:30 a.m. permit holders.*

(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone.

(2) All 2:30 a.m. permit holders shall make every reasonable effort to arrange for orderly closing of the establishment, including, but not limited to, instructions to customers that they should depart the premises in a quiet and orderly fashion.

(3) All 2:30 a.m. permit holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

(4) All 2:30 a.m. permit holders shall comply with all City ~~city~~ Building and Zoning Codes, including the statewide Building Code, the City's ~~city's~~ sign regulations, and City ~~city~~ nuisance and property maintenance codes, and all alcoholic beverage control ordinances, statutes, and regulations.

(5) Compliance with any additional reasonable requirements set by the ABC Board as a condition of the applicant receiving a 2:30 a.m. permit. The ABC Board may impose reasonable conditions and/or restrictions related to the use and operation the premises after 1:00 a.m. based on the circumstances and operations of the premises such as the volume of traffic, the nature of the neighborhood where the premises are located, the number of patrons, whether live or recorded music is played, and so forth. These conditions and/or restrictions may be in addition to any conditions imposed by the Board of Adjustment if a conditional use requirement is required for the use of

the premises. The ABC Board's conditions and/or restrictions will be limited to the hours between 1:00 a.m. and 2:30 a.m. They include, but are not limited to: requiring seating in the rear of the premises or in a restricted area or in an enclosed area installation of fencing or landscaping to act as a barrier; requiring the closure of windows; requiring security measures to be provided by the establishment; requiring the business to restrict outdoor seating after 1:00 a.m.; and/or that no amplified music be allowed outside after 1:00 a.m.

(6) Any suspension or revocation of the 2:30 a.m. permit holder's regular City ~~city~~ or state liquor by the drink license shall result in a suspension or revocation of the holder's 2:30 a.m. permit for the same time period.

(I) *Hearing provision.*

(1) There is hereby established a City ~~city~~ Alcoholic Beverage Control Board (ABC Board) consisting of the Police Chief, the City Manager or his or her designee, and a citizen of the City ~~city~~. The citizen of the City shall be appointed by the Mayor with the approval of the Board of Commissioners for a three-year, renewable term.

(2) The ABC Board shall conduct a public hearing regarding all new and transferred 2:30 a.m. permit applications and ~~certain renewal applications~~ as specified in divisions (I)(6) and (7). The City Clerk shall post notice of any meeting of the City ~~city~~ ABC Board at least 24 hours before the meeting takes place. For all hearings regarding new or transferred 2:30 a.m. permits, the City Administrator shall mail written notice of the hearing no less than seven (7) days prior to the hearing to all properties abutting the premises for which the permit is to be issued.

(3) The City ~~local ABC~~ Administrator, the City Solicitor, or the City Solicitor's designee shall represent the City at any and all hearings before the ABC Board. The City ~~ABC~~ Administrator shall present evidence gathered in support or disapproval of the 2:30 a.m. permit application or renewal and make his or her recommendation to the ABC Board. It will also be the responsibility the City ~~ABC~~ Administrator to investigate complaints and/or allegations of violations of this or other City ~~city~~, state or federal alcoholic beverage control laws by a 2:30 a.m. permit holder and to present his or her findings to the ABC Board.

(4) The ABC Board shall consider the recommendation of the City Administrator ~~local ABC administrator~~ and all evidence presented. The Board shall render a decision either approving, approving with conditions, or disapproving the application or renewal of a 2:30 a.m. permit. If the application or renewal is disapproved, the ABC Board shall list the reason(s) for such a denial. In addition to the conditions and regulations previously listed, the Board may deny or suspend the 2:30 a.m. permit application or renewal for any of the follow reasons:

(a) The applicant is not in compliance with the terms and conditions of division (B), (G), and/or (H) above.

(b) The establishment abuts a church, school or abuts an accessory use of the church or school, and the applicant has not gained the written consent of the church or school.

(c) The applicant is a sexually oriented business and has not obtained a sexually oriented business license.

(d) An excessive amount of police calls involving excessive noise, disruptive or illegal conduct at the applicant's establishment. Excessive means three or more calls concerning separate, unrelated incidents that are documented by a law enforcement agency.

(e) Any arrest and conviction for prostitution or drug activity occurring on the applicant's premises within the last three years.

(5) If the City ~~city~~ ABC Board approves a 2:30 a.m. permit with conditions, the City ~~city ABC~~ Administrator and the City ~~city~~ police department shall have the power to conduct periodic checks to ensure that the applicant is in compliance.

(6) The ABC Board shall have the responsibility for investigating and hearing complaints regarding 2:30 a.m. permit holders and it shall have the authority to levy fines up to $500 per violation or suspend or revoke a 2:30 a.m. permit where it finds violations of this section or other applicable beverage control laws. The ABC Board may allow a 2:30 a.m. permittee to continue to operate subject to conditions. The ABC Board may conduct hearings upon verified complaints from citizens or upon its own motion, or on complaints received by the City ~~ABC~~ Administrator, police officers or other enforcement personnel regarding the violation of law by a 2:30 a.m. permit holder.

(7) The City ~~city ABC~~ Administrator shall conduct an annual review before the renewal of any 2:30 a.m. permit and if it is determined that probable cause exists that the 2:30 a.m. permit holder is in violation of regulations established by this section or other City ~~city~~, state or federal law, then the City ~~ABC~~ Administrator shall present a recommendation to the ABC Board to deny or suspend the 2:30 a.m. permit that is up for renewal. The ABC Board shall hold a hearing and render a decision on whether the 2:30 a.m. permit renewal application should be denied, suspended, renewed or renewed with conditions .

(8) The 2:30 a.m. permit holder will have the opportunity to present evidence in his or her own defense at any hearings conducted by the ABC Board and shall have the right to be represented by an attorney at law, and the proceeding shall be mechanically or stenographically recorded. Any party desiring to have a court reporter shall be responsible for the cost of the court reporter.

(9) Appeals. The 2:30 a.m. permit holder or the complainant may appeal the decision of the ABC Board to the Board of Commissioners by filing a notice of appeal with the City Clerk within ten days of the date of the written decision of the ABC Board.

(a) The appellant shall be responsible for having the mechanically recorded transcript typed and submitted to the City Clerk within 30 days of the date of the notice of appeal. Five copies of the typed transcript as well as any other written memoranda shall be submitted by the appellant to the City Clerk for forwarding to the Mayor and Board of Commissioners no later than 45 days from the date of the notice of appeal.

(b) The appellee shall have 15 days from the date of the filing of the appellant's transcript and memoranda to file a reply brief or any other argument in response to appellant's brief.

(c) The Mayor and Board of Commissioners may affirm, deny, amend, or remand the findings of the ABC Board based upon the transcript and the written memoranda of appellant and appellee. In addition, it shall be discretionary with the Mayor and Board of Commissioners as to whether oral arguments will be permitted to aid the Mayor and Board of Commissioners in reaching their decision.

(d) The findings of the Mayor and Board of Commissioners shall be reduced to writing and their decision shall be appealable to the Kenton County Circuit Court.

(J) *Transferability.*

(1) An individual holding a 2:30 a.m. permit may transfer that permit to a new location which he or she will own and operate, if it falls within the acceptable zones previously listed in division (B)(5).

(2) Whenever transfer to a different transferee is proposed at the same location, the 2:30 a.m. ~~nightclub~~ permit may be transferred if the location is in a zone listed in division (B)(5), and if the transferee is granted approval by the ABC Board after following the application steps listed in this section.

(3) When a 2:30 a.m. permit holder in any zone except those listed in division (B)(5), transfers the business to a new owner, the 2:30 a.m. permit may be transferred subject to the approval of the ABC Board after following the application steps listed in this section.

(K) Whenever an applicant to obtain or transfer a 2:30 a.m. permit has obtained City ~~city~~ approval for a City ~~city~~ alcoholic beverage license and is awaiting approval of a state alcoholic beverage license, and is operating validly under another state alcoholic beverage license, the applicant may operate under the newly obtained or transferred 2:30 a.m. permit while awaiting state approval.

Section 11

Section 111.033 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ESTABLISHMENTS. A business within the City ~~city~~, where distilled spirits, wine, or malt beverages are ~~liquor, beer or wine is~~ sold for consumption on the premises pursuant to an alcoholic beverage ~~a retail drink liquor license or retail malt beverage liquor~~ license that has been issued by the City ~~city~~.

LICENSE. Any City alcoholic beverage license listed in § 111.025(A)(1). ~~A retail drink liquor license or a retail malt beverage liquor license issued by the city.~~

LICENSEE. Any person to whom a license has been issued by the City ~~retail drink liquor license or a retail malt beverage liquor license has been issued by the city~~, including the officers and agents of the licensee.

~~***LIQUOR ADMINISTRATOR.*** The duly appointed Alcoholic Beverage Control Administrator of the city.~~

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PREMISES. The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

(B) It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view portion of the breast referred to as the areola, nipple, or simulation thereof.

(C) A licensee ~~or retail licensee~~ is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) In the event a violation of this section occurs, the City ~~Liquor~~ Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business

establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.

Section 12

Section 111.034 of the Covington Code of Ordinances is amended to read as follows. All portions thereof not listed remain unchanged:

§ 111.034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED

(A) No employee or independent contractor of an ~~licensed liquor~~ establishment licensed to sell alcoholic beverages shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed ~~liquor~~ establishment.

(B) No employee or independent contractor of an ~~licensed liquor~~ establishment licensed to sell alcoholic beverages shall be compensated in any manner that is measured by a percentage or fraction of distilled spirits, wine, and/or malt beverage ~~beer or liquor~~ retail sales.

Section 13

Section 111.035 of the Covington Code of Ordinances entitled "Close Doors During Hours of Operation" is hereby repealed in its entirety.

Section 14

The City Alcoholic Beverage Control Administrator and the Finance Department of the City are hereby authorized and directed to issue, at no charge, replacement licenses to all licensees that currently hold valid City alcoholic beverage licenses in order to bring said licensees into compliance with the provisions of this ordinance. The replacement licenses shall be of the types listed in Section 4 of this ordinance and shall correspond to the license types issued to the licensee by the Kentucky Department of Alcoholic Beverage Control.

Section 15

This ordinance shall take effect and be in full force from and after its passage, publication, which may be in summary form, and recording, according to the law.

Sherry Carran
MAYOR

ATTEST:

Margaret M Tyson
CITY CLERK

Passed: 10-22-13 (Second Reading)

10-8-13 (First Reading)

COMMISSIONERS' ORDINANCE NO. O-24-08

AN ORDINANCE AMENDING THE CITY ALCOHOLIC BEVERAGE CONTROL ORDINANCES TO UPDATE AND CLARIFY LICENSING REGULATIONS AND PROCEDURES.

* * *

WHEREAS, the Legal Department has reviewed the City of Covington's ordinances related to alcoholic beverage control in light of the need to consistent with state alcoholic beverage control law; and

WHEREAS, revisions to the City of Covington's alcoholic beverage control ordinances will promote the safety, health, and well being of Covington's residents and improve the regulation process for City retail alcoholic beverage licenses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That § 111.025 "Licensing of Sale or Transportation Business" is hereby amended as follows:

§ 111.025 LICENSING ~~OF SALE OR TRANSPORTATION BUSINESS~~ AND HEARINGS.

(N) *License revocation or suspension.*

(1) Any license issued pursuant to § 111.021~~2~~ et seq. may be revoked or suspended by the City Administrator, after complying with the hearing requirements below, for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed; or

(b) ~~Making any~~ If the licensee makes any false material statements in an application for a license; or

(c) ~~Violation of the~~ If the licensee violates any provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control; or

(d) Conviction of the licensee of any felony; or

(e) Conviction of the licensee, or his or her agent who controls or operates the licensee's premises, of any offense pertaining to prostitution, illegal gambling, knowingly possessing or receiving stolen property, sale or use of illegal drugs, or the illegal sale or use of controlled substances or prescription drugs; or

(f) If the licensee allows the premises to be used as the site for any criminal activity nuisance as defined by Covington Code or Ordinances Section 92.10; or

(g) If the licensee allows the premises to used as the site for any public nuisance as defined by Covington Code of Ordinance Section 92.05; or

(h) If licensee allows the premises to be used as the site for a unlicensed sexually oriented business; or

(i) If the licensee is delinquent or in default of an obligation to pay a loan, fine lien or other financial obligation to the City, then license is subject to suspension until the obligation is satisfied.

(2) The existence of any delinquent or unpaid City taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.*

(1) The City Administrator may, ~~in his or her discretion~~ after a hearing, order a suspension of the license for up to 180 days for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city. The suspended licensee may pay a fine of $50.00 per day in lieu of the suspension, subject to the approval of the City Administrator. The City Administrator shall issue a written order of such suspension via regular United States mail to the licensee's address indicated on the license.

~~(2) Any order of suspension so issued shall be subject to review by hearing on an appeal from the order within ten days after date of its issue to the State Department of Alcoholic Beverage Control, which appeal shall be prosecuted in the manner and form provided for by the Alcoholic Beverage Control Act.~~

(P) *Issuance of license after revocation.* Any person, partnership, LLC, or other corporate entity who has suffered, or any of its members or partners have suffered, a revocation of a license to do business under the provisions of § 111.022 et seq. shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to § 111.022 et seq. shall be accepted by the applicant subject to the following conditions:~~.~~

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the eCity, at all reasonable hours for the purpose of inspection and search, and ~~to~~ for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the eCity and the laws of the state.~~, and consent to the introduction of such articles or things in evidence in any prosecution that may be brought involving their necessary use.~~

(2) The licensee holding a license pursuant to this chapter shall not sell any spirituous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in, or allowing customers to engage in, fighting or in violent, tumultuous, or threatening behavior; or
(b) Making unreasonable noise; or
(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating, or giving away alcoholic beverages at no cost to the customer, shall be unlawful and is forbidden.

(5) No spirituous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed ~~drunk~~ on the premises any spirituous or vinous liquors or mixtures thereof during hours when the sale of alcoholic beverages is prohibited.~~between the hours of 1:00 a.m. and 6:00 a.m. or any time during the 24 hours of a Sunday, or on any regular or primary election day, while the election polling places are open. In the event the licensee hereunder is the holder of a malt liquor license only, he or she shall not keep his or her place of business open between 1:00 a.m. and 6:00 a.m. nor shall he or she keep his or her place of business open on Sunday between 1:00 a.m. and 1:00 p.m.~~ In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) *Registration, photographing, and fingerprinting of employees.*

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.

(S) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

(T) *Hearings.* Revocation or suspension proceedings shall be governed as follows.

(1) Notice of hearings. The City Administrator shall provide written notice, via regular United States mail or hand delivery to the licensee, notice of any hearing related to the possible suspension or revocation of the licensee's alcoholic beverage license. The address provided by the licensee to the City on its license application shall be deemed the address for notice of hearings. The licensee shall notify the City of any change of address subsequent to the submission of an application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted at City Hall at least 24 hours prior to the hearing.

(2) Procedure.

(a) The City Administrator shall be the hearing officer for any proceedings related to the possible suspension or revocation of any City alcoholic beverage license.

(b) Any hearing before the City Administrator shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS Chapter 13B.080 and 13B.090.

(c) The City Solicitor, or his or her designee, shall represent the City at the hearing. The licensee has a right to retain counsel for representation at the hearing.

(d) The City Administrator shall issue a written decision, including findings of fact and conclusions of law, with seven days of the conclusion of the hearing.

(4) Appeals. Any order of suspension or revocation issued by the City Administrator may be appealed to the State Alcoholic Beverage Control Board within 30 days of the date of the order.

Section 2

That all ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

Section 3

If any section, subsection, sentence, or clause of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 4

The City Clerk of Covington, Kentucky shall certify the adoption of this ordinance and cause the same to be published as required by law; and this ordinance shall take effect and be in full force from and after its approval as required by law.

Irvin T. Colley
MAYOR

ATTEST:

Gracy W. Stanham
CITY CLERK

Passed: 7/15/08 (First Reading)

8/19/08 (Second Reading)

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ALCOHOLIC BEVERAGE CONTROL

obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations or for violation of this subchapter or any other grounds specified by law.

City of Covington in Kenton Co.

('77 Code, § 621.4 Sec. III) (Ord. O-16-82, passed 3-16-82) Penalty, see § 111.999

§ 111.005 BILLS AND POSTERS.

(A) *Posting notices prohibited; exception.* No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole, or on any public structure or building, except as may be authorized or required by law.

(B) *Advertisements on sidewalks prohibited.* No person shall print or paint any signs or advertisements for any purpose whatsoever on the sidewalks of the city.

(C) *Bill posting without property owner's consent prohibited.* No person shall post, paint, burn, sit up, or expose any bill, placard, or advertisement, or cause the same to be posted, painted, burnt, set up, or exposed on the property or premises of any other person without first obtaining the consent of the legal owner or custodian of such property or premises.

(D) *Removing or defacing bills prohibited.* No person shall willfully or recklessly remove, tear down, deface, injure, or destroy any written or printed handbill, poster, or other notice or advertisement of like character legally posted or otherwise legally displayed, in any public place in this city, so long as the same shall be of value for the purposes thereof to the person who posted or displayed the same, or caused it to be posted or displayed.

(E) *Posting bills on utility poles.* No person shall paint, post, paste, or otherwise in any manner attach any bills, posters, streamers, or display advertisements on any telephone, telegraph, or electric light poles located on the streets, thoroughfares, or alleys in the city.

(F) *City employees to remove bills or advertisements.*

(1) The employees of the Police Department and the employees of the General Services Department shall tear down or remove any bills, posters, or display advertisements in any manner attached to any telephone, telegraph, or electric light poles.

(2) This section shall not apply to traffic signs.

(G) *Permits for signs and advertisements on and across streets.* No person shall erect, hang, or display signs and advertisements for any purpose whatsoever on and across the streets and public thoroughfares of the city, without first obtaining a permit from the City Manager.

('77 Code, § 621.4 Sec. IV) (Ord. O-64-71, passed 12-9-71; Am. Ord. O-16-82, passed 3-16-82; Am. Ord. O-85-86, passed 1-13-87) Penalty, see § 111.999

ALCOHOLIC BEVERAGES

Sunday Drink ok'd 9 hrs 11AM-2:30AM
Week days hrs - 6AM 2:30 AM

§ 111.020 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Every liquid or solid, whether patented or not, containing alcohol, and capable of being consumed by human beings. It includes every spirituous or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

BREW-ON-PREMISES ESTABLISHMENT. Any establishment that has been granted a license pursuant to the provisions of § 111.030 to provide ingredients, equipment, and assistance permitted by § 111.030 to a customer to brew malt beverages on the premises of the establishment.

BREWER. Any person who owns, occupies, carries on, works, or conducts any brewery either by himself, herself or by his or her agent.

BREWERY. Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mashroom, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverage is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

BUILDING CONTAINING LICENSED PREMISES. The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

CITY ADMINISTRATOR. The City Alcoholic Beverage Control Administrator.

CUSTOMER. Any person at least 21 years old.

DISTILLERY. Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.

DISTRIBUTOR. Any person who distributes malt beverages for the purpose of being sold at retail.

MALT BEVERAGES. Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242.

NONPROFIT. These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).

RETAILER. Any person who sells at retail any alcoholic beverage for the sale of which a license is required.

SALE. Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

('77 Code, § 410.01) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-11-82, passed 2-16-82; Am. Ord. O-27-97, passed 9-2-97)

Statutory reference:
Alcoholic beverages, see KRS Chapters 242 - 244

§ 111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m., and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar owners, employees or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair.

(B) Malt beverages shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(D) *Exceptions.*

(1) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of 11:00 a.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink or wine by the drink.

(2) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1½ hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine.

('77 Code, § 410.02) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-6-88, passed 2-9-88; Am. Ord. O-14-01, passed 4-3-01; Am. Ord. O-64-04, passed 11-09-04; Am. Ord. O-16-06, passed 4-11-06)

§ 111.022 USE OF REVENUE.

All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.

('77 Code, § 410.03) (Ord. O-6-82, passed 2-2-82)

§ 111.023 CITY ADMINISTRATOR.

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law.

(B) The compensation to be paid the City Administrator shall be established by the city's annual salary ordinance.

(C) The bond for the City Administrator shall be in the same form and amount as required for the City Manager.

(Ord. O-13-94, passed 4-12-94)

(D) *City Administrator enforcement of section, duties, and rule-making powers.*

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinance, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter in a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him or her concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him or her, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(E) *Appointment; oath; bond.* The City Administrator shall take office on his or her appointment and on taking the oath and on the execution of the bond for the faithful performance of his or her duties as required by law.

(F) *Functions of City Administrator.* The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(G) *Action on license application; appeals.*

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this chapter, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his or her recommendations thereon, and the reasons therefore, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state.

('77 Code, § 410.04) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94)

Statutory reference:

Alcoholic beverages, see KRS Chapters 242 et seq.

City Administrator, see KRS 241.160

§ 111.024 CLUBS, LODGES, AND FRATERNAL ORDERS.

(A) *Definitions.* For the purpose of this section, ***CLUB, LODGE,*** or ***FRATERNAL ORDER*** shall mean and include any club, lodge, or fraternal order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, or fraternal order.

(B) *License required; nonresidential building.*

(1) No club, lodge, or fraternal order shall engage in the business of selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) *License application; issuance.*

(1) Whenever any club, lodge, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous nonintoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

(a) The name and location of such club, lodge, or fraternal order;

(b) The names and addresses of the officers thereof;

(c) The date and character of its organization; and

(d) The approximate number of members in good standing, and shall, in addition there to be signed by the owner, or his or her agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he or she shall pass an order to that effect and thereupon the Finance Department shall issue to the applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

(D) *License fee; proration refunds.*

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued by the Finance Department, shall pay to the city for the license, the sum of $150 per year.

(2) When the license is issued after August 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part o f any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

(E) *Display of license.* When a license shall have been granted issued under this section, the lodge or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction, a copy thereof to be kept or placed is some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The

license shall remain on display luring the period for which the license shall be granted.

(F) *Forfeiture or revocation of license; hearing on charge.* If any club, lodge, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control.

('77 Code § 410.05) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.025 LICENSING OF SALE OR TRANSPORTATION BUSINESS.

(A) *License required.*

(1) No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(B) *License application; contents.* Any person desiring to engage in the business of distilling, wholesaling spiritous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink shall, before so doing, file with the City Administrator an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and

the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) *Location of premises to be licensed.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises that is located on the same street as and within 200 feet of a building occupied exclusively as a school, hospital, or place of worship, without giving a ten-day, written notice to the governing authority of the school, hospital, or place of worship, setting forth the kind of license for which the applicant intends to apply. Such notice must be sent by registered mail through the post office of the United States, and the return registered mail receipt and a copy of the notice shall be attached to the application at the time application is made.

(2) The section shall not apply to a hotel, drug store, or private club which has been bona fide in business as a licensee at the location for not less than one year preceding the passage of the Alcoholic Control Administration Act of 1938.

(3) Measurement of the 200 foot distance referred to shall be taken on the street on which the licensee's premises are located in a straight line from the nearest property line of the real estate on which is located the building used for the school, hospital, or place of worship, to the nearest property line of

the real estate on which is located the building for which a license is sought.

(G) *Qualification of licensee.* No person shall be come a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

(I) *Prorate license fees.*

(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:

(1) Malt beverages:

Brewer's license, per annum $500.00

Microbrewery license, per annum $500.00

Distributor's license, per annum $300.00

Retailer's license, per annum $200.00

Special temporary license, per month $12.50

(2) Distilled spirits and wine:

Distiller's license, per annum $500.00

Rectifier's license, per annum $500.00

Blender's license, per annum $500.00

Wholesaler's license, per annum $2,000.00

Retail package license, per annum $1,000.00

Retail drink license, per annum $600.00

Special temporary license per week $21.00

Special private club license, per annum $250.00

Special Sunday retail drink license $250.00

Nonresident, special agent or solicitor's license, per annum $40.00

Restaurant wine license, per annum $400.00

Temporary wine license, per week $12.50

Caterer's license, per annum $400.00

Supplemental bar license, per annum $600.00

(3) Brew-on-Premises

Brew-on-premises license, per annum $500.00

Statutory reference:
City license fees, see KRS 243.070

(K) *Retail liquor license includes maltous and vinous liquors.* Where a licensee has been granted a retail license to sell liquor by the drink and has paid the license fee therefor, he or she shall be entitled to a license to sell and dispense maltous or vinous liquors without the payment of any additional fee for the license therefor. In this event, the license to sell and dispense maltous beverages shall be subject to the quota provisions of the city, the same as all other malt beverage retailer's licenses (retail malt beverage licenses).

(L) *Contents of license.* All licenses issued pursuant to § 111.022 shall contain the following information:

(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 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 or suspended at any time pursuant to law.

(M) *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of $5.

(N) *License revocation.*

(1) Any license issued pursuant to § 111.022 may be revoked for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) Making any false material statements in an application for a license; or

(c) Violation of the provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control.

(2) The existence of any delinquent or unpaid taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.*

(1) The City Administrator may, in his or her discretion, order a suspension of the license for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city.

(2) Any order of suspension so issued shall be subject to review by hearing on an appeal from the order within ten days after date of its issue to the State Department of Alcoholic Beverage Control, which appeal shall be prosecuted in the manner and form provided for by the Alcoholic Beverage Control Act.

(P) *Issuance of license after revocation.* Any person who has suffered a revocation of a license to do business under the provisions of § 111.022 shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to § 111.022 shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search and to the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state, and consent to the introduction of such articles or things in evidence in any prosecution that may be brought involving their necessary use.

(2) The licensee holding a license pursuant to this chapter shall not sell any spiritous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating shall be unlawful and is forbidden.

(5) No spiritous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be drunk on the premises any spiritous or vinous liquors or mixtures thereof between the hours of 1:00 a.m. and 6.:00 a.m. or any time during the 24 hours of a Sunday, or on any regular or primary election day, while the election polling places are open. In the event the licensee hereunder is the holder of a malt liquor license only, he or she shall not keep his or her place of business open between 1:00 a.m. and 6:00 a.m. nor shall he or she keep his or her place of business open on Sunday between 1:00 a.m. and 1:00 p.m. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) *Registration, photographing, and fingerprinting of employees.*

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.

(S) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

('77 Code, § 410.06) (Ord. O-6-84, passed 2-28-84; Am. Ord. O-17-84, passed 3-13-84; Am. Ord. O-46-84, passed 8-14-84; Am. Ord. O-67-85, passed 9-3-85; Am. Ord. O-81-86, passed 12-16-86; Am. Ord. O-6-89, passed 1-31-89; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-27-97, passed 9-2-97; Am. Ord. O-44-98, passed 9-15-98) Penalty, see § 111.999

§ 111.026 WHOLESALE DISTRIBUTION AND SALES.

(A) *Definition.* As used in this section, ***DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES*** shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) *Nonalcoholic beverages exempted.* This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) *License required.* No person shall engage in the business of distribution or sale by wholesale of any cereal, malt, or vinous beverage, without first having obtained a license therefor.

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the Finance Department a license therefor, for which he or she shall pay the license fees as provided in this chapter.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse, agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this chapter.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next, after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) *Hours of operation restricted.*

(1) No person shall distribute and sell by wholesale any cereal, malt, or vinous beverages between the hours of 7:00 p.m. and 6:00 a.m. except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(F) *Distributor's license.*

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in the licensed premises to other distributors, to retailers, or to consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

('77 Code, § 410.07) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.027 SUPPLEMENTAL RETAIL DRINK LIQUOR LICENSES.

(A) A supplemental bar license may be issued to a holder of a retail drink liquor license upon a showing to the City Alcoholic Beverage Control Administrator of good cause and need for the supplemental license, and upon payment of a fee equivalent to the amount of the annual license fee paid by the licensee. This supplemental license may only be issued for use on the premises for which the applicant's existing retail drink liquor license was issued.

(B) Retail drink liquor license - supplemental shall not be considered in determining the quota of the city for regular retail drink liquor licenses.

('77 Code, § 410.08) (Ord. O-6-82, passed 2-2-82)

§ 111.028 PACKAGE RETAIL LIQUOR OUTLET.

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his or her business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Manager with a drawing of his or her normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE $100.00, MAXIMUM FINE $500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnership, or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above, shall be exempt from the provisions hereof.

('77 Code, § 410.09) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.029 PRIVATE CLUB LICENSE.

(A) A special private club license may be issued to any nonprofit social, fraternal, military, or political organization or club, which for more than one year prior to the date of application has maintained and operated a clubroom or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail licensee shall apply to the special club licensee. Such a special club licensee shall also be available as a malt beverage retail license.

(B) No person shall do any act authorized by any kind of license with respect to the sale, manufacture, storage, purchase, transporting, or other trafficking in alcoholic beverages of any kind whether they be distilled spirits, wine, or malt beverage unless he or she holds the appropriate state and city license.

('77 Code, § 410.10) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.030 BREW-ON-PREMISES LICENSE.

(A) No person shall operate or maintain a brew-on-premises establishment without first obtaining a license to do so from the Finance Department. A license shall be granted if an applicant meets the

provisions of this section.

(B) A brew-on-premises license may be authorized to provide:

(1) Instruction, advise, expertise, space, equipment, ingredients, and bottling supplies for a customer in brewing malt beverages at the licenses premises;

(2) Assistance to customers, including:

(a) Moving containers of beer between storage areas;

(b) Cleaning, maintaining, and repairing brewing and bottling equipment;

(c) Maintaining climate and temperature control;

(d) Disposing of spent grains and waste; and

(e) Quality control, including laboratory analysis of malt beverages;

(3) Filtering and carbonation of malt beverages.

(C) A licensee and his or her employees shall not provide physical assistance to, or on behalf of, the customer in the production or bottling of malt beverages, except as otherwise permitted by statue or administrative regulation.

(D) Malt beverages produced under this license shall:

(1) Be removed from the premises by the customer upon completion of bottling for personal or family use, including use in organized fairs, exhibitions, or competitions; and

(2) Not be sold or offered for sale by the customer.

(E) A customer may produce malt beverages for personal or household use on the premises of the brew-on-premises license. The production of malt beverages per household shall not exceed:

(1) One hundred gallons per year for a household with one adult at least 21 years of age in permanent residence; or

(2) Two hundred gallons per year for a household with two or more adults at least 21 years of age in permanent residence.

(F) A license issued pursuant to this section shall not be:

(1) A quota license as defined in 804 KAR 9:010; and

(2) Transferable to another premises.

(G) The brew-on-premises licensee shall maintain records on customers and gallons brewed for at least two years. Records shall be kept on the premises of the licensed establishment and shall be subject to inspection by the City Administrator for compliance with provisions of this section.

(Ord. O-27-97, passed 9-2-97)

§ 111.031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) *Establishment.* There is hereby established a city special Sunday retail drink license, pursuant to the authority granted by KRS 243.070.

(B) *Restrictions.* The holder of the special Sunday package and retail drink license shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail licenses shall be governed by § 111.021 that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this chapter and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

('77 Code, § 410.12) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-16-06, passed 4-11-06) Penalty, see § 111.999

§ 111.032 2:30 A.M. PERMITS.

(A) *Permit required.* No person shall operate or maintain a business enterprise permitting the sale, exchange, or transfer of spirituous, vinous, malt, or alcoholic mixtures thereof between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining a 2:30 a.m. permit from the city Alcoholic Beverage Control Board (ABC Board).

(B) *Eligibility and qualifications of holder and grandfather clause.*

(1) All applications shall be in writing and made directly to the city Alcoholic Beverage Control Board (ABC Administrator) or his or her designee. The ABC Administrator shall request a background check and criminal history from the Chief of Police or his or her police department designee with respect to the considered applicant's eligibility and the written certification of approval from the Zoning Administrator.

(2) To be eligible for a 2:30 a.m. permit, the applicant must have a current and valid city and state alcoholic beverage license for the sale of liquor by the drink.

(3) Package or malt beverage retail sales licensees, unless the licensee also has a valid city and state liquor by the drink license, shall not be eligible for a 2:30 a.m. permit.

(4) All taxes, fines, outstanding liens, fees and license charges in connection with the applicant's business enterprise due the city, including annual minimum occupational license, must be paid before an applicant shall be considered. Additionally, if the applicant is the recipient of any loan granted or administered by the city, all payments or obligations concerning the loan(s) must be current at the time the application is submitted. However, if there is a member, officer, shareholder or partner of an entity that is an applicant who is in default of an obligation as indicated above, the entity not in default shall not be denied the right to submit an application.

(5) Effective on the passage of this section, no new permit shall be issued without the written certification of the Zoning Administrator on the application that the proposed site requesting issuance of the permit is located within one of the following zones:

(a) Central Business District (CBD)

(b) Commercial-General (CG)

(c) Commercial-Tourist (CT)

(d) Commercial-Community (CC)

(e) Resource Protection (RP), but only when adjacent to a commercial, office, or industrial zone.

(f) Commercial-Neighborhood (CN)

(g) Commercial-office (CO)

(6) No applicant shall be granted a 2:30 a.m. permit who has been convicted of any felony within the last five years or misdemeanor relating to the use of alcoholic beverages within two years prior to submission of application or otherwise is in violation of the provisions of KRS 243.100 *et seq*.

(7) No applicant shall be granted a 2:30 a.m. permit unless the person is an actual resident of the state or a corporation licensed to do business within the Commonwealth of Kentucky.

(8) Persons holding permits prior to the enactment of this section and also those businesses holding a liquor by the drink license and located in the area annexed to the city by ordinance O-47-76, adopted June 10, 1976, shall be granted the privilege of continued operation without regard to the zoning requirements of division (B)(5) above. All future transfers of existing nightclub permits at the same location will be honored if the transfers comply with the conditions and regulations listed in this section.

(C) *Permit fee.* The fee for a 2:30 a.m. permit shall be $5,000 per year, payable on or before February 1 of each year. If a permittee in good standing is approved by the ABC Board to transfer his or her permit to a new permittee at the same location during the license year, there shall be no additional fee assessed for that license year.

(D) *Proration of fees.* Fees collected for the purchase of 2:30 a.m. permits shall be due and prorated on a monthly basis if the application is received and awarded during the license year.

(E) *Disposition of revenue.* The proceeds of the permit fees collected under this section shall be deposited in the city's general fund account.

(F) *Information.* All applications and permits issued pursuant to the provisions of this section shall contain the following:

(1) Name, address, telephone number and e-mail address of applicant (including all officers, stockholders of small corporations (to or less stockholders), members of a limited liability company and/or partners);

(2) Number of the permit;

(3) Type of permit;

(4) Street address of the premises which holds the permit;

(5) The name and address of the owner of the building in which the permit is located;

(6) The expiration date of the permit; and

(7) A statement that the permit shall not be a property right, and that it may be revoked or suspended at any time, pursuant to the law.

(G) *Conditions of permit.* All permits issued pursuant to this section shall be accepted by the applicant subject to the following:

(1) That the premises shall be subject to the entry of police, city ABC Administrator, law enforcement officers, or other duly authorized representatives of the city at all reasonable hours for the purposes of inspection and at all times during the operation of the premises.

(2) That the licensed premises shall, at all times, be conducted in an orderly manner and no indecent or criminal conduct shall be allowed at any time, nor shall violations of any law be permitted thereon.

(3) That no spirituous, vinous, or malt liquors shall be sold or dispensed to any minor. No licensee shall sell, give away, furnish, or permit to be consumed on the premises any spirituous, vinous, or malt liquors or any mixtures thereof between the hours of 2:30 a.m. and 6:00 a.m., or at any time during the hours of a Sunday after 2:30 a.m. (unless the applicant has obtained a Special Sunday Retail Drink License that allows for sale to begin at 11 a.m. on Sunday), or on any regular or primary election day while the election polling places are open. During the time periods referred to herein, no person shall be present on the premises of the establishment licensed for the sale of alcoholic beverages except the owner or his or her authorized employees, contractors and agents.

(H) *Specific regulations for 2:30 a.m. permit holders.*

(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone.

(2) All 2:30 a.m. permit holders shall make every reasonable effort to arrange for orderly closing of the establishment, including, but not limited to, instructions to customers that they should depart the premises in a quiet and orderly fashion.

(3) All 2:30 a.m. permit holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

(4) All 2:30 a.m. permit holders shall comply with all city Building and Zoning Codes, including the statewide Building Code, the city's sign regulations, and city nuisance and property maintenance codes, and all alcoholic beverage control ordinances, statutes, and regulations.

(5) Compliance with any additional reasonable requirements set by the ABC Board as a

condition of the applicant receiving a 2:30 a.m. permit. The ABC Board may impose reasonable conditions and/or restrictions related to the use and operation the premises after 1:00 a.m. based on the circumstances and operations of the premises such as the volume of traffic, the nature of the neighborhood where the premises are located, the number of patrons, whether live or recorded music is played, and so forth. These conditions and/or restrictions may be in addition to any conditions imposed by the Board of Adjustment if a conditional use requirement is required for the use of the premises. The ABC Board's conditions and/or restrictions will be limited to the hours between 1:00 a.m. and 2:30 a.m. They include, but are not limited to: requiring seating in the rear of the premises or in a restricted area or in an enclosed area installation of fencing or landscaping to act as a barrier; requiring the closure of windows; requiring security measures to be provided by the establishment; requiring the business to restrict outdoor seating after 1:00 a.m.; and/or that no amplified music be allowed outside after 1:00 a.m.

(6) Any suspension or revocation of the 2:30 a.m. permit holder's regular city or state liquor by the drink license shall result in a suspension or revocation of the holder's 2:30 a.m. permit for the same time period.

(I) *Hearing provision.*

(1) There is hereby established a city Alcoholic Beverage Control Board (ABC Board) consisting of the Police Chief, the City Manager or his or her designee, and a citizen of the city.

(2) The ABC Board shall conduct a public hearing regarding all new and transferred 2:30 a.m. permit applications and certain renewal applications as specified in division (7). The City Clerk shall post notice of any meeting of the city ABC Board at least 24 hours before the meeting takes place.

(3) The local ABC Administrator shall represent the City at any and all hearings before the ABC Board. The ABC Administrator shall present evidence gathered in support or disapproval of the 2:30 a.m. permit application or renewal and make his or her recommendation to the ABC Board. It will also be the responsibility the ABC Administrator to investigate complaints and/or allegations of violations of this or other city, state or federal alcoholic beverage control laws by a 2:30 a.m. permit holder and to present his or her findings to the ABC Board.

(4) The ABC Board shall consider the recommendation of the local ABC administrator and all evidence presented. The Board shall render a decision either approving, approving with conditions, or disapproving the application or renewal of a 2:30 a.m. permit. If the application or renewal is disapproved, the ABC Board shall list the reason(s) for such a denial. In addition to the conditions and regulations previously listed, the Board may deny or suspend the 2:30 a.m. permit application or renewal for any of the follow reasons:

(a) The applicant is not in compliance with the terms and conditions of division (B) above.

(b) The establishment abuts a church, school or abuts an accessory use of the church or school, and the applicant has not gained the written consent of the church or school.

(c) The applicant is a sexually oriented business and has not obtained a sexually oriented business license.

(d) An excessive amount of police calls involving excessive noise, disruptive or illegal conduct at the applicant's establishment. Excessive means three or more calls concerning separate, unrelated incidents that are documented by a law enforcement agency.

(e) Any arrest and conviction for prostitution or drug activity occurring on the applicant's premises within the last three years.

(5) If the city ABC Board approves a 2:30 a.m. permit with conditions, the city ABC Administrator and the city police department shall have the power to conduct periodic checks to ensure that the applicant is in compliance.

(6) The ABC Board shall have the responsibility for investigating and hearing complaints regarding 2:30 a.m. permit holders and it shall have the authority to levy fines up to $500 per violation or suspend or revoke a 2:30 a.m. permit where it finds violations of this section or other applicable beverage control laws. The ABC Board may allow a 2:30 a.m. permittee to continue to operate subject to conditions. The ABC Board may conduct hearings upon verified complaints from citizens or upon its own motion, or on complaints received by the ABC Administrator, police officers or other enforcement personnel regarding the violation of law by a 2:30 a.m. permit holder.

(7) The city ABC Administrator shall conduct an annual review before the renewal of any 2:30 a.m. permit and if it is determined that probable cause exists that the 2:30 a.m. permit holder is in violation of regulations established by this section or other city, state or federal law, then the ABC Administrator shall present a recommendation to the ABC Board to deny or suspend the 2:30 a.m. permit that is up for renewal. The ABC Board shall hold a hearing and render a decision on whether the 2:30 a.m. permit renewal application should be denied, suspended, renewed or renewed with conditions .

(8) The 2:30 a.m. permit holder will have the opportunity to present evidence in his or her own defense at any hearings conducted by the ABC Board and shall have the right to be represented by an attorney at law, and the proceeding shall be mechanically or stenographically recorded. Any party desiring to have a court reporter shall be responsible for the cost of the court reporter.

(9) Appeals. The 2:30 a.m. permit holder or the complainant may appeal the decision of the ABC Board to the Board of Commissioners by filing a notice of appeal with the City Clerk within ten days of the date of the written decision of the ABC Board.

(a) The appellant shall be responsible for having the mechanically recorded transcript typed and submitted to the City Clerk within 30 days of the date of the notice of appeal. Five copies of the typed transcript as well as any other written memoranda shall be submitted by the appellant to the City Clerk for forwarding to the Mayor and Board of Commissioners no later than 45 days from the date of the notice of appeal.

(b) The appellee shall have 15 days from the date of the filing of the appellant's transcript and memoranda to file a reply brief or any other argument in response to appellant's brief.

(c) The Mayor and Board of Commissioners may affirm, deny, amend, or remand the findings of the ABC Board based upon the transcript and the written memoranda of appellant and appellee. In addition, it shall be discretionary with the Mayor and Board of Commissioners as to whether oral arguments will be permitted to aid the Mayor and Board of Commissioners in reaching their decision.

(d) The findings of the Mayor and Board of Commissioners shall be reduced to writing and their decision shall be appealable to the Kenton County Circuit Court.

(J) *Transferability.*

(1) An individual holding a 2:30 a.m. permit may transfer that permit to a new location which he or she will own and operate, if it falls within the acceptable zones previously listed in division (B)(5).

(Ord. O-34-92, passed 8-29-92)

(2) Whenever transfer to a different transferee is proposed at the same location, the 2:30 a.m. nightclub permit may be transferred if the location is in a zone listed in division (B)(5), and if the transferee is granted approval by the ABC Board after following the application steps listed in this section.

(Ord. O-34-92, passed 8-29-92)

(3) When a 2:30 a.m. permit holder in any zone except those listed in division (B)(5), transfers the business to a new owner, the 2:30 a.m. permit may be transferred subject to the approval of the ABC Board after following the application steps listed in this section.

(Ord. O-34-92, passed 8-29-92)

(K) Whenever an applicant to obtain or transfer a 2:30 a.m. permit has obtained city approval for a city alcoholic beverage license and is awaiting approval of a state alcoholic beverage license, and is operating validly under another state alcoholic beverage license, the applicant may operate under the newly obtained or transferred 2:30 a.m. permit while awaiting state approval.

('77 Code, § 410.13) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-84, passed 3-13-84; Am. Ord. O-28-84, passed 5-8-84; Am. Ord. O-32-85, passed 6-11-85; Am. Ord. O-85-85, passed 12-3-85; Am. Ord. O-71-88; passed 8-24-88; Am. Ord. O-7-89, passed 1-31-89; Am. Ord. O-37-91, passed 7-23-91; Am. Ord. O-30-98, passed 6-25-98; Am. Ord. O-4-08, passed 1-29-08) Penalty, see § 111.999

§ 111.033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ESTABLISHMENTS. A business within the city, where liquor, beer or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail malt beverage liquor license that has been issued by the city.

LICENSE. A retail drink liquor license or a retail malt beverage liquor license issued by the city.

LICENSEE. Any person to whom a retail drink liquor license or a retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.

LIQUOR ADMINISTRATOR. The duly appointed Alcoholic Beverage Control Administrator of the city.

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PREMISES. The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

(B) It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view portion of the breast referred to as the areola, nipple, or simulation thereof.

(C) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) In the event a violation of this section occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.

(Ord. O-9-83, passed 3-8-83) Penalty, see § 111.999

§ 111.034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED

(A) No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed liquor establishment.

(B) No employee or independent contractor of a licensed liquor establishment shall be compensated in any manner that is measured by a percentage or fraction of beer or liquor retail sales.

(Ord. O-15-86, passed 3-18-86; Am. Ord. O-32-91, passed 7-2-91) Penalty, see § 111.999

§ 111.035 CLOSE DOORS DURING HOURS OF OPERATION.

Establishments in the city licensed to sell or dispense alcoholic beverages by the drink shall be prohibited from allowing doors leading from the licensed premises to the public street to remain in the open position for any time period longer than is reasonably necessary to allow persons to enter or leave said establishment at all times during normal hours of operation, except between the hours of 9:00 a.m. and 9:00 p.m. However, the 9:00 a.m. to 9:00 p.m. exception shall not apply to places of entertainment where alcoholic beverages are sold including nightclubs, theaters, pool halls, billiard parlors and similar enterprises. The doors of these places of entertainment shall not remain in the open position throughout their hours of operation.

(Ord. O-55-86, passed 9-2-86; Am. Ord. O-60-86, passed 9-16-86; Am. Ord. O-84-86, passed 1-13-87;

Am. Ord. O-41-87, passed 7-7-87; Am. Ord. O-36-91, passed 7-23-91) Penalty, see § 111.999

§ 111.036 ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

(Ord. O-18-90, passed 5-15-90) Penalty, see § 111.999

AUCTIONS

§ 111.050 GENERAL MERCHANDISE SALES.

(A) *License required.* No person shall sell or offer for sale at public auction, any goods, wares, merchandise, furniture, or any other article, or effects, carried in stock, or applied merchandise without first obtaining a license to do so and paying a license tax as provided by law or ordinance.

(B) *Tags on sale items; contents; statement of warranty.*

(1) Any person conducting an auction shall attach to each article of merchandise exposed or offered for sale at the auction, a tag on which shall be written or printed in English, a true statement of the character and quality of the goods or article offered or exposed for sale. The purpose of the tag shall be to given to each purchaser of any article at such a sale full and correct information of the nature, kind, and quality of the article of merchandise being sold. The auctioneer shall read the information or statement contained on the tag before offering the merchandise for sale.

(2) If any secondhand goods or articles are offered for sale at such an auction, that fact shall appear in the statement on the tag. The tag attached to the articles of merchandise shall be signed by the person conducting the sale and shall be firmly attached to the article of merchandise sold at public sale.

(3) The tag shall be delivered with the article so sold to the purchaser and the representations on the tag shall constitute a warranty of the kind, character, and quality of the article sold.

(4) The statement on the tag shall begin with the words: "The undersigned represents that the (describe or name the article) to which this statement is attached is (then shall follow in detail representations as to the quality, kind, and character of the merchandise, together with all facts relative thereto, in detail as above provided)."

(C) *Bidding regulations.*

(1) Any person conducting an auction sale, or who may hereafter be licensed to conduct such a sale by auction, shall not employ or use at the sale any "by-bidder", "capper" or "booster". No auctioneer shall, at such a sale, accept or pretend to accept any false, misleading, or fictitious bid for any article offered for sale, but every sale must be bona fide.

(2) The auctioneer at the sale shall recognize no bidder for any article exposed for sale, unless the bidder shall speak in tone audible to those present, the amount of his or her bid, or shall extend his or her arm above the heads of the crowd so as to be plainly seen and identified as the bidder by those

(Ord. O-7-07, passed 3-27-07) Penalty, see § 111.999

§ 111.999 PENALTY.

(A) *Advertising.* Any person found guilty of violating any provision of §§ 111.003 through 111.005 shall be deemed guilty of a violation and shall be fined not less than $10 nor more than $100.

(Ord. O-16-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94)

(B) *Alcoholic beverages.*

(1) Any person found guilty of violating any provision of §§ 111.021, 111.024 through 111.028, 111.030, or 111.031, except § 111.025(R), shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Administrator.

(2) Any person, firm, or corporation convicted of violating § 111.025(R) shall be deemed guilty of a misdemeanor and shall be fined not less than $25 nor more than $500 in the discretion of the District Court.

(3) Any person, firm, corporation, whether for profit or not for profit, or any officer or individual or agent or employee of the corporation who violates any of the provisions of § 111.029 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 in the District Court or any other court of appropriate jurisdiction, in the discretion of the court.

(4) Any person who violates any provision of § 111.032 shall be deemed guilty of a misdemeanor and shall be fined in an amount of not less than $50, nor more than $500, or imprisoned for not more than 90 days, or both fine and imprisonment for each violation, in the discretion of the court. The criminal penalty shall be in addition to any penalty imposed by revocation or suspension of the nightclub permit by the Mayor and Board of Commissioners.

(Ord O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94)

(5) Any person found to be in violation of the provisions of § 111.033 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(Ord. O-9-83, passed 3-8-83; Am. Ord. O-13-94, passed 4-12-94)

(6) Any person found to be in violation of § 111.034 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or imprisoned for not more than six months in jail, or both so fined and imprisoned at the discretion of the court of appropriate jurisdiction.

(Ord. O-15-86, passed 3-18-86; Am. Ord. O-13-94, passed 4-12-94)

(7) Any person found to be in violation of the provisions of § 111.035 shall be deemed guilty of a violation and shall be subject to a fine of $25 for each violation.

(Ord. O-55-86, passed 9-2-86; Am. Ord. O-13-94, passed 4-12-94)

(8) Any person found to be in violation of the provisions of § 111.036 shall be deemed guilty of a violation and shall, upon conviction thereof, be fined not less than $10 nor more than $100 for each offense.

(Ord. O-18-90, passed 5-15-90; Am. Ord. O-13-94, passed 4-12-94)

(C) *Auctions.* Any person who violates any provision of §§ 111.050 or 111.051 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(Am. Ord. O-13-94, passed 4-12-94)

(D) *Charitable solicitations.* Any person who violates any provisions of §§ 111.060 through 111.076 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(Am. Ord. O-13-94, passed 4-12-94)

(E) *Coin machines.*

(1) Any person who operates, distributes, or has a proprietary interest in a coin machine, as defined in § 111.300, before procuring the license and paying the tax required by §§ 111.300 through 111.309, shall be deemed guilty of a violation and shall be fined not less than $25 nor more than $200 for each offense.

(Ord. O-68-78, passed 7-6-78; Am. Ord. O-13-94, passed 4-12-94)

(F) *Detective and guard agencies.* Any person who violates any provision of §§ 111.090 through 111.102 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned. (Am. Ord. O-13-94, passed 4-12-94)

(G) *Festival vendor license.* Any person who violates any provision of § 111.260 shall be deemed guilty of a misdemeanor and shall be fined not more than $500. Each day of continued violation shall be deemed a separate offense. (Ord. O-2-91, passed 2-19-91; Am. Ord. O-13-94, passed 4-12-94)

(H) *Horse-drawn vehicle/carriage businesses.* In addition to any other remedy, any person, firm, or corporation found guilty of violating the provisions of §§ 111.400 through 111.404 shall be deemed guilty of a misdemeanor and shall be fined not less than $50 nor more than $200 for each offense (a separate offense shall be deemed committed on each day during or on which a violation occurs or continues), or may be imprisoned for not less than 60 days, or both.

(Ord. O-16-87, passed 3-24-87; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-56-04, passed 8-24-04)

(I) *Itinerant vendors.* Any person, firm, or corporation found to be in violation of the provisions of § 111.141 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(Ord. O-44-82, passed 7-20-82; Am. Ord. O-13-94, passed 4-12-94)

(J) *Junk dealers, scrap metal dealers, secondhand dealers, and secondhand stores.* Any person convicted of violating the provisions of §§ 111.150 through 111.161 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

('77 Code, § 430.11, Sec. I(zz)) (Ord. O-27-82, passed 4-13-82; Am. Ord. O-13-94, passed 4-12-94)

(K) *Marriage brokers.* Any person convicted of violating the provisions of § 111.170 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

('77 Code, § 1030.68 Sec. I(zz)) (Ord. O-26-82, passed 4-13-82; Am. Ord. O-13-94, passed 4-12-94)

(L) *Massage therapists and persons providing massages in exchange for money.* Any person who violates any provision of §§ 111.180, 111.181 shall be guilty of a Class B misdemeanor and shall be subject to a fine and/or jail time in accordance with the penalties for a Class B misdemeanor provided for in th Kentucky Revised Statutes.

(Ord. O-5-04, passed 2-3-04)

(M) *Pool and billiard halls.* Any person who violates any provision of §§ 111.200 through 111.212 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(Am. Ord. O-13-94, passed 4-12-94)

(N) *Precious metals dealers.* Violation of any of the duties, requirements, or prohibitions contained in §§ 111.230 through 111.233 shall be punishable as a Class A misdemeanor as defined by Kentucky Revised Statutes.

(Ord. O-4-81, passed 1-20-81)

(O) *Public markets.* Any person who violates any provision of §§ 111.250 through 111.256 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(P) *Rental agencies.* No rental agency, agent, or employee shall violate nor participate in the violation of any of the provisions of §§ 111.330 et seq. governing rental agencies. Whoever violates the provisions thereof shall be deemed guilty of a misdemeanor and shall be fined not more than $250 and/or imprisoned for not more than 90 days. Each transaction that violates any provision of §§ 111.330 et seq. governing rental agencies shall constitute a separate violation.

(Ord. O-35-84, passed 7-3-84; Am. Ord. O-13-94, passed 4-12-94)

(Q) *Sexually oriented businesses.* Any person violating the provision of §§ 111.600 et seq. shall be guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment for a

period not to exceed one year, or both.

(Ord. O-17-99, passed 5-25-99)

(R) *Taxicabs.* Any person who violates any provisions of §§ 111.270 through 111.292 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(Ord. O-40-04, passed 6-22-04)

(S) *Vending cart sales.* Any person, firm, or corporation found guilty of violating the provisions of §§ 111.500 through 111.508 shall be deemed guilty of a misdemeanor and shall be fined not less than $300 or imprisoned for not more than 60 days, or both, for the first offense, and fined not less than $500 or imprisoned for not more than 90 days, or both, for each offense after the first in the same calendar year, plus mandatory revocation of license with the second offense.

(T) *Temporary sale or display of motor vehicles.* Any person who violates any provision of §§ 111.700 through 111.705 shall be guilty of a violation and on conviction shall be punished by a fine of not less than $100 or more than $250 for each offense. Each day of such violation shall constitute a separate offense, and no additional notice other than notice of the original offense shall be required to convict a person for violations resulting from a continuation of such offense.

(U) *Garage and yard sales.*

(1) *Civil penalty.* Any violation of §§ 111.801 through 111.806 and § 111.808 is classified as a civil offense pursuant to the authority of KRS 65.8808. Any person who violates §§ 111.801 through 111.806 and § 111.808 shall be subject to a civil fine of not less than $200 per day per violation but not more than $500 per day per violation, or the cost to the city to abate the violation of §§ 111.801 through 111.806 and § 111.808, or both. Each day that a violation of §§ 111.801 through 111.806 and § 111.808 continues shall be deemed a separate offense to a maximum of $10,000 per citation.

(a) If a citation for a violation of this §§ 111.801 through 111.806 and § 111.808 is not contested by the person charged with the violation, the civil fine to be imposed for each offense shall be $100 for the first offense, $200 for the second offense, and $300 for the third, and thereafter, offense.

(b) If a citation is contested and a hearing before the Code Enforcement Board is required, the maximum civil fine which may be imposed at the discretion of the board shall be as indicated in division (B) above.

(2) *Liens and costs.* The city shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

(3) *Code enforcement officers.* Code enforcement officers are hereby granted authority to issue citations for violations of this §§ 111.801 through 111.806 and § 111.808, but shall not have the powers of peace officers to make arrests or carry deadly weapons. The person receiving a notice of violation shall appear within a designated time pursuant to the citation.

(Ord. O-76-88, passed 9-13-88; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-73-04, passed 12-13-

04; Am. Ord. O-1-07, passed 1-23-07; Am. Ord. O-7-07, passed 3-27-07)

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CHAPTER 111: REGULATIONS GOVERNING SPECIFIC BUSINESSES

Section

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COMMISSIONERS' ORDINANCE NO. O-64-04

AN ORDINANCE AMENDING SECTION 111.021 OF THE CITY OF COVINGTON CODE, 1984 EDITION, REGARDING THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY.

* * *

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Section 111.021 of the City of Covington Code, 1984 edition, is hereby amended regarding the sale of alcoholic beverages on Sundays, as follows:

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111. REGULATIONS GOVERNING SPECIFIC BUSINESSES

ALCOHOLIC BEVERAGES

111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m., and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar employees or subcontractors while performing work on the licensed premises including but not limited to plumbing, cleaning, or electrical repair.

~~(B) No distilled spirits or wine may be sold within the city between the hours of 1:00 a.m., Sunday, and 6:00 a.m., Monday.~~

(~~C~~ B) Malt beverages shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

Section 2

That any ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 3

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

Irwin T. Culley
MAYOR

ATTEST:

Paula K. Bricer
CITY CLERK

Passed: 11/9/04 (first reading)

11/19/04 (second reading)

COMMISSIONERS' ORDINANCE NO. O- 37 -96

AN ORDINANCE AMENDING SECTION 96.70 OF THE CITY OF COVINGTON CODE, 1984 EDITION, ENTITLED "TABLE PLACEMENT, PERMIT REQUIRED", TO PROVIDE THAT A RESTAURANT OR DINING FACILITY POSSESSING A LIQUOR BY THE DRINK LICENSE MAY SERVE ALCOHOLIC BEVERAGES SUBJECT TO APPROVAL BY THE LOCAL ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

* * *

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Section 96.70 of the City of Covington Code, 1984 edition, entitled "Table Placement, Permit Required", is hereby amended to provide that a restaurant or dining facility possessing a liquor by the drink license may serve alcoholic beverages subject to approval by the local Alcoholic Beverage Control Administrator. Section 96.70(D) shall read as follows:

TITLE IX: GENERAL REGULATIONS

CHAPTER 90. STREETS AND SIDEWALKS

TABLE PLACEMENT

96.70 PERMIT REQUIRED.

(D) No alcoholic beverages shall be served or consumed on the public sidewalk, unless the portion of the public sidewalk where the permitted tables are located is included in the "licensed premises" for a licensed liquor by the drink restaurant or dining facility as approved by the local alcoholic beverage control administrator and the state alcoholic beverage control department. The licensee must demonstrate to the alcoholic beverage control administrator that gross sales of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total gross receipts of such restaurant or dining facility for the license period.

Section 2

Any ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 3

Any section or part of a section or any provision of this ordinance which is declared by a court of appropriate jurisdiction, for any reason, to be invalid, such decision shall not affect or invalidate the remainder of this ordinance.

Section 4

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

_____
M A Y O R

ATTEST:

_____
CITY CLERK

Passed: 8/20/96 (first reading)

_____ (second reading)

§ 111.020 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Every liquid or solid, whether patented or not, containing alcohol, and capable of being consumed by human beings. It includes every spirituous or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

BREW-ON-PREMISES ESTABLISHMENT. Any establishment that has been granted a license pursuant to the provisions of § 111.030 to provide ingredients, equipment, and assistance permitted by § 111.030 to a customer to brew malt beverages on the premises of the establishment.

BREWER. Any person who owns, occupies, carries on, works, or conducts any brewery either by himself, herself or by his or her agent.

BREWERY. Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mashroom, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverage is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

BUILDING CONTAINING LICENSED PREMISES. The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

CITY ADMINISTRATOR. The City Alcoholic Beverage Control Administrator.

CUSTOMER. Any person at least 21 years old.

DISTILLERY. Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.

DISTRIBUTOR. Any person who distributes malt beverages for the purpose of being sold at retail.

MALT BEVERAGES. Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242.

NONPROFIT. These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).

RETAILER. Any person who sells at retail any alcoholic beverage for the sale of which a license is required.

SALE. Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

('77 Code, § 410.01) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-11-82, passed 2-16-82; Am. Ord. O-27-97, passed 9-2-97)

Statutory reference:
Alcoholic beverages, see KRS Chapters 242 - 244

§ 111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m., and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar owners, employees or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair.

(B) Malt beverages shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(D) *Exceptions.*

(1) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of 11:00 a.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink or wine by the drink.

(2) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1½ hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine.

('77 Code, § 410.02) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-6-88, passed 2-9-88; Am. Ord. O-14-01, passed 4-3-01; Am. Ord. O-64-04, passed 11-09-04; Am. Ord. O-16-06, passed 4-11-06)

§ 111.022 USE OF REVENUE.

All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.

('77 Code, § 410.03) (Ord. O-6-82, passed 2-2-82)

§ 111.023 CITY ADMINISTRATOR.

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law.

(B) The compensation to be paid the City Administrator shall be established by the city's annual salary ordinance.

(C) The bond for the City Administrator shall be in the same form and amount as required for the

City Manager.

(Ord. O-13-94, passed 4-12-94)

(D) *City Administrator enforcement of section, duties, and rule-making powers.*

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinance, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter in a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him or her concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him or her, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(E) *Appointment; oath; bond.* The City Administrator shall take office on his or her appointment and on taking the oath and on the execution of the bond for the faithful performance of his or her duties as required by law.

(F) *Functions of City Administrator.* The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(G) *Action on license application; appeals.*

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this chapter, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his or her recommendations thereon, and the reasons therefore, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state.

(`77 Code, § 410.04) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94)

Statutory reference:
Alcoholic beverages, see KRS Chapters 242 et seq.

City Administrator, see KRS 241.160

§ 111.024 CLUBS, LODGES, AND FRATERNAL ORDERS.

(A) *Definitions.* For the purpose of this section, ***CLUB, LODGE,*** or ***FRATERNAL ORDER*** shall mean and include any club, lodge, or fraternal order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or

keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, or fraternal order.

(B) *License required; nonresidential building.*

(1) No club, lodge, or fraternal order shall engage in the business of selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) *License application; issuance.*

(1) Whenever any club, lodge, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous nonintoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

(a) The name and location of such club, lodge, or fraternal order;

(b) The names and addresses of the officers thereof;

(c) The date and character of its organization; and

(d) The approximate number of members in good standing, and shall, in addition there to be signed by the owner, or his or her agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he or she shall pass an order to that effect and thereupon the Finance Department shall issue to the applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

(D) *License fee; proration refunds.*

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued by the Finance Department, shall pay to the city for the license, the sum of $150 per year.

(2) When the license is issued after August 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part o f any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

(E) *Display of license.* When a license shall have been granted issued under this section, the lodge

or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction, a copy thereof to be kept or placed is some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The license shall remain on display luring the period for which the license shall be granted.

(F) *Forfeiture or revocation of license; hearing on charge.* If any club, lodge, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control.

('77 Code § 410.05) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.025 LICENSING OF SALE OR TRANSPORTATION BUSINESS.

(A) *License required.*

(1) No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(B) *License application; contents.* Any person desiring to engage in the business of distilling, wholesaling spiritous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink shall, before so doing, file with the City Administrator an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business

to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) *Location of premises to be licensed.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises that is located on the same street as and within 200 feet of a building occupied exclusively as a school, hospital, or place of worship, without giving a ten-day, written notice to the governing authority of the school, hospital, or place of worship, setting forth the kind of license for which the applicant intends to apply. Such notice must be sent by registered mail through the post office of the United States, and the return registered mail receipt and a copy of the notice shall be attached to the application at the time application is made.

(2) The section shall not apply to a hotel, drug store, or private club which has been bona fide in business as a licensee at the location for not less than one year preceding the passage of the Alcoholic Control Administration Act of 1938.

(3) Measurement of the 200 foot distance referred to shall be taken on the street on which the licensee's premises are located in a straight line from the nearest property line of the real estate on which is located the building used for the school, hospital, or place of worship, to the nearest property line of the real estate on which is located the building for which a license is sought.

(G) *Qualification of licensee.* No person shall be come a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

(I) *Prorate license fees.*

(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:

(1) Malt beverages:

Brewer's license, per annum $500.00

Microbrewery license, per annum $500.00

Distributor's license, per annum $300.00

Retailer's license, per annum $200.00

Special temporary license, per month $12.50

(2) Distilled spirits and wine:

Distiller's license, per annum $500.00

Rectifier's license, per annum $500.00

Blender's license, per annum $500.00

Wholesaler's license, per annum $2,000.00

Retail package license, per annum $1,000.00

Retail drink license, per annum $600.00

Special temporary license per week $21.00

Special private club license, per annum $250.00

Special Sunday retail drink license $250.00

Nonresident, special agent or solicitor's license, per annum $40.00

Restaurant wine license, per annum $400.00

Temporary wine license, per week $12.50

Caterer's license, per annum $400.00

Supplemental bar license, per annum $600.00

(3) Brew-on-Premises

Brew-on-premises license, per annum $500.00

Statutory reference:
City license fees, see KRS 243.070

(K) *Retail liquor license includes maltous and vinous liquors.* Where a licensee has been granted a retail license to sell liquor by the drink and has paid the license fee therefor, he or she shall be entitled to a license to sell and dispense maltous or vinous liquors without the payment of any additional fee for the license therefor. In this event, the license to sell and dispense maltous beverages shall be subject to the quota provisions of the city, the same as all other malt beverage retailer's licenses (retail malt beverage licenses).

(L) *Contents of license.* All licenses issued pursuant to § 111.022 shall contain the following information:

(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 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 or suspended at any time pursuant to law.

(M) *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of $5.

(N) *License revocation.*

(1) Any license issued pursuant to § 111.022 may be revoked for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) Making any false material statements in an application for a license; or

(c) Violation of the provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control.

(2) The existence of any delinquent or unpaid taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.*

(1) The City Administrator may, in his or her discretion, order a suspension of the license for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city.

(2) Any order of suspension so issued shall be subject to review by hearing on an appeal from the order within ten days after date of its issue to the State Department of Alcoholic Beverage Control, which appeal shall be prosecuted in the manner and form provided for by the Alcoholic Beverage Control Act.

(P) *Issuance of license after revocation.* Any person who has suffered a revocation of a license to do business under the provisions of § 111.022 shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to § 111.022 shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search and to the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state, and consent to the introduction of such articles or things in evidence in any prosecution that may be brought involving their necessary use.

(2) The licensee holding a license pursuant to this chapter shall not sell any spiritous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating shall be unlawful and is forbidden.

(5) No spiritous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be drunk on the premises any spiritous or vinous liquors or mixtures thereof between the hours of 1:00 a.m. and 6.:00 a.m. or any time during the 24 hours of a Sunday, or on any regular or primary election day, while the election polling places are open. In the event the licensee hereunder is the holder of a malt liquor license only, he or she shall not keep his or her place of business open between 1:00 a.m. and 6:00 a.m. nor shall he or she keep his or her place of business open on Sunday between 1:00 a.m. and 1:00 p.m. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) *Registration, photographing, and fingerprinting of employees.*

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.

(S) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

('77 Code, § 410.06) (Ord. O-6-84, passed 2-28-84; Am. Ord. O-17-84, passed 3-13-84; Am. Ord. O-46-84, passed 8-14-84; Am. Ord. O-67-85, passed 9-3-85; Am. Ord. O-81-86, passed 12-16-86; Am. Ord. O-6-89, passed 1-31-89; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-27-97, passed 9-2-97; Am. Ord. O-44-98, passed 9-15-98) Penalty, see § 111.999

§ 111.026 WHOLESALE DISTRIBUTION AND SALES.

(A) *Definition.* As used in this section, ***DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES*** shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) *Nonalcoholic beverages exempted.* This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) *License required.* No person shall engage in the business of distribution or sale by wholesale

of any cereal, malt, or vinous beverage, without first having obtained a license therefor.

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the Finance Department a license therefor, for which he or she shall pay the license fees as provided in this chapter.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse, agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this chapter.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next, after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) *Hours of operation restricted.*

(1) No person shall distribute and sell by wholesale any cereal, malt, or vinous beverages between the hours of 7:00 p.m. and 6:00 a.m. except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(F) *Distributor's license.*

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in the licensed premises to other distributors, to retailers, or to consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

('77 Code, § 410.07) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.027 SUPPLEMENTAL RETAIL DRINK LIQUOR LICENSES.

(A) A supplemental bar license may be issued to a holder of a retail drink liquor license upon a showing to the City Alcoholic Beverage Control Administrator of good cause and need for the supplemental license, and upon payment of a fee equivalent to the amount of the annual license fee paid by the licensee. This supplemental license may only be issued for use on the premises for which the applicant's existing retail drink liquor license was issued.

(B) Retail drink liquor license - supplemental shall not be considered in determining the quota of the city for regular retail drink liquor licenses.

('77 Code, § 410.08) (Ord. O-6-82, passed 2-2-82)

§ 111.028 PACKAGE RETAIL LIQUOR OUTLET.

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his or her business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Manager with a drawing of his or her normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE $100.00, MAXIMUM FINE $500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnership, or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above, shall be exempt from the provisions hereof.

('77 Code, § 410.09) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.029 PRIVATE CLUB LICENSE.

(A) A special private club license may be issued to any nonprofit social, fraternal, military, or political organization or club, which for more than one year prior to the date of application has maintained and operated a clubroom or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail licensee shall apply to the special club licensee. Such a special club licensee shall also be available as a malt beverage retail license.

(B) No person shall do any act authorized by any kind of license with respect to the sale, manufacture, storage, purchase, transporting, or other trafficking in alcoholic beverages of any kind whether they be distilled spirits, wine, or malt beverage unless he or she holds the appropriate state and city license.

('77 Code, § 410.10) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.030 BREW-ON-PREMISES LICENSE.

(A) No person shall operate or maintain a brew-on-premises establishment without first obtaining a license to do so from the Finance Department. A license shall be granted if an applicant meets the provisions of this section.

(B) A brew-on-premises license may be authorized to provide:

(1) Instruction, advise, expertise, space, equipment, ingredients, and bottling supplies for a customer in brewing malt beverages at the licenses premises;

(2) Assistance to customers, including:

(a) Moving containers of beer between storage areas;

(b) Cleaning, maintaining, and repairing brewing and bottling equipment;

(c) Maintaining climate and temperature control;

(d) Disposing of spent grains and waste; and

(e) Quality control, including laboratory analysis of malt beverages;

(3) Filtering and carbonation of malt beverages.

(C) A licensee and his or her employees shall not provide physical assistance to, or on behalf of, the customer in the production or bottling of malt beverages, except as otherwise permitted by statue or administrative regulation.

(D) Malt beverages produced under this license shall:

(1) Be removed from the premises by the customer upon completion of bottling for personal or family use, including use in organized fairs, exhibitions, or competitions; and

(2) Not be sold or offered for sale by the customer.

(E) A customer may produce malt beverages for personal or household use on the premises of the brew-on-premises license. The production of malt beverages per household shall not exceed:

(1) One hundred gallons per year for a household with one adult at least 21 years of age in permanent residence; or

(2) Two hundred gallons per year for a household with two or more adults at least 21 years of age in permanent residence.

(F) A license issued pursuant to this section shall not be:

(1) A quota license as defined in 804 KAR 9:010; and

(2) Transferable to another premises.

(G) The brew-on-premises licensee shall maintain records on customers and gallons brewed for at

least two years. Records shall be kept on the premises of the licensed establishment and shall be subject to inspection by the City Administrator for compliance with provisions of this section.

(Ord. O-27-97, passed 9-2-97)

§ 111.031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) *Establishment.* There is hereby established a city special Sunday retail drink license, pursuant to the authority granted by KRS 243.070.

(B) *Restrictions.* The holder of the special Sunday package and retail drink license shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail licenses shall be governed by § 111.021 that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this chapter and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

('77 Code, § 410.12) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-16-06, passed 4-11-06) Penalty, see § 111.999

§ 111.032 NIGHTCLUB PERMITS.

(A) *Permit required.* No person shall operate or maintain a business enterprise permitting the sale, exchange, or transfer of spirituous, vinous, malt, or alcoholic mixtures thereof between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining a nightclub permit from the Board of Commissioners.

(B) *Eligibility and qualifications of holder and grandfather clause.*

(1) All applications shall be in writing and made directly to the City Manager. The City Manager shall request a confidential police report and recommendation from the Chief of Police with respect to the considered applicant's eligibility and the written certification of approval from the Zoning Administrator.

(2) In order to be eligible for a nightclub permit, the applicant must have a current and valid city and state alcoholic beverage license for the sale of liquor by the drink or retail.

(3) Package sales licensees shall not be eligible for a nightclub permit.

(4) All fees and license charges in connection with the applicant's business enterprise due the city, including annual minimum occupational license, must be paid before an applicant shall be considered.

(5) Effective on the passage of this section, no new permit shall be issued without the written certification of the Zoning Administrator on the application that the proposed site requesting issuance of the permit is located within one of the following zones:

(a) Central Business (CBD)

(b) General Commercial 2 (C-2)

(c) Tourist Service Commercial (TSC)

(d) Highway Commercial 2 (HC-2)

(e) Conservation (CO), but only when adjacent to a commercial, office, or industrial zone.

(f) Neighborhood Commercial (NC-2)

(6) No applicant shall be granted a nightclub permit who has been convicted of any felony or misdemeanor relating to the use of alcoholic beverages within two years prior to submission of application.

(7) No applicant shall be granted a nightclub permit unless the person is an actual resident of the state or a corporation licensed to do business within the Commonwealth of Kentucky.

(8) Persons holding nightclub permits prior to the enactment of this section and also those businesses holding a liquor by the drink license and located in the area annexed to the city by ordinance O-47-76, adopted June 10, 1976, shall be granted the privilege of continued operation without regard to the zoning requirements of division (B)(5) above. All future transfers of existing nightclub permits at the same location will be honored if the transfers meet the approval of the Police Chief and the Alcoholic Beverage Administrator of the city.

(C) *Permit fee.* The fee for a nightclub permit shall be $5,000 per year, payable on or before February 1 of each year. If a permittee in good standing is approved by the 2:30 a.m. Permit Hearing Board to transfer his or her permit to a new permittee at the same location during the license year, there shall be no additional fee assessed for that license year.

(D) *Proration of fees.* Fees collected for the purchase of nightclub permits shall be due and prorated on a monthly basis if the application is received and awarded during the license year.

(E) *Disposition of revenue.* The proceeds of the permit fees collected under this section shall be deposited in the city's general fund account.

(F) I*nformation.* All applications and permits issued pursuant to the provisions of this section shall contain the following:

(1) Name and address of applicant;

(2) Number of the permit;

(3) Type of permit;

(4) Street address of the premises which holds the permit;

(5) The name and address of the owner of the building in which the permit is located;

(6) The expiration date of the permit; and

(7) A statement that the permit shall not be a property right, and that it may be revoked or suspended at any time, pursuant to the law.

(G) *Conditions of permit.* All permits issued pursuant to this section shall be accepted by the applicant subject to the following:

(1) That the premises shall be subject to the entry of police and other duly authorized representatives of the city at all reasonable hours for the purposes of inspection and at all times during the operation of the premises.

(2) That the licensed premises shall, at all times, be conducted in an orderly manner and no indecent conduct shall be allowed at any time, nor shall violations of any law be permitted thereon.

(3) That no spirituous, vinous, or malt liquors shall be sold or dispensed to any minor. No licensee shall sell, give away, furnish, or permit to be drunk on the premises any spirituous, vinous, or malt liquors or any mixtures thereof between the hours of 2:30 a.m. and 6:00 a.m., or at any time during the hours of a Sunday after 2:30 a.m., or on any regular or primary election day while the election polling places are open. During the time periods referred to herein, no person shall be present on the premises of the establishment licensed for the sale of alcoholic beverages except the owner or his or her authorized employees and agents.

(H) *Specific regulations for 2:30 a.m. permit holders.*

(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone.

(2) All 2:30 a.m. permit holders shall make every reasonable effort to arrange for orderly closing of the establishment, including, but not limited to, instructions to customers that they should depart the premises in a quiet and orderly fashion.

(3) All 2:30 a.m. permit holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

(4) All 2:30 a.m. permit holders shall comply with all city Building and Zoning codes, including the statewide Building Code, the city's sign regulations, and all Life Safety Code provisions, and all alcoholic beverage control ordinances, statutes, and regulations.

(I) *Hearing provision.*

(1) There is hereby established a city 2:30 a.m. Permit Hearing Board consisting of the Police Chief, the local Alcoholic Beverage Administrator, and a citizen of the city.

(2) It will be the responsibility of this Board to investigate and hear cases arising from allegations of violation of this or other state or federal laws by a 2:30 a.m. permit holder. This Board will conduct hearings upon verified complaints from citizens or upon its own motion, or on complaints received by the police officers or other enforcement personnel regarding the violation of law by a 2:30 a.m. permit holder.

(3) The 2:30 a.m. Permit Hearing Board shall have the responsibility for investigating and hearing complaints and it shall have the authority to recommend suspension or revocation of a 2:30 a.m. permit where it finds violations of this section or other applicable law.

(4) The 2:30 a.m. Permit Hearing Board shall conduct an annual review before the renewal of any 2:30 a.m. license and if it is determined that probable cause exists that the 2:30 a.m. permit holder is in violation of regulations established by this section or state or federal law, then that Board shall recommend to the Mayor and Board of Commissioners that the violating permit holder be denied a renewal of his or her permit or be given a suspension of his or her permit.

(5) The 2:30 a.m. permit holder will have the opportunity to present evidence in his or her own defense at any hearings conducted by the 2:30 a.m. Permit Hearing Board and shall have the right to be represented by an attorney at law, and the proceeding shall be mechanically or stenographically recorded. Any party desiring to have a court reporter shall be responsible for the cost of the court reporter. The findings of the 2:30 a.m. Permit Hearing Board are advisory in nature and will be used by the Mayor and Board of Commissioners in determining whether a 2:30 a.m. permit should be revoked or if an application for renewal should be denied or suspended.

(6) The 2:30 a.m. permit holder or the complainant may appeal the decision of the 2:30 a.m. Permit Hearing Board by filing a notice of appeal with the City Clerk within ten days of the date of the written decision of the 2:30 a.m. Permit Hearing Board.

(a) The appellant shall be responsible for having the mechanically recorded transcript typed and submitted to the City Clerk within 30 days of the date of the notice of appeal. Five copies of the typed transcript as well as any other written memoranda shall be submitted by the appellant to the City Clerk for forwarding to the Mayor and Board of Commissioners no later than 45 days from the date of the notice of appeal.

(b) The appellee shall have 15 days from the date of the filing of the appellant's transcript and memoranda to file a reply brief or any other argument in response to appellant's brief.

(c) The Mayor and Board of Commissioners may affirm, deny, amend, or remand the findings of the 2:30 a.m. Permit Hearing Board based upon the transcript and the written memoranda of appellant and appellee. In addition, it shall be discretionary with the Mayor and Board of Commissioners as to whether oral arguments will be permitted to aid the Mayor and Board of Commissioners in reaching their decision.

(d) The findings of the Mayor and Board of Commissioners will by reduced to writing and their decision shall be appealable to the court having proper jurisdiction.

(J) *Transferability.*

(1) An individual holding a 2:30 a.m. nightclub permit may transfer that permit to a new location which he or she will own and operate, if it falls within the CBD, C-2, TSC, HC-2, or NC-2 zones and also in the conservation (CO) zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone.

(Ord. O-34-92, passed 8-29-92)

(2) Whenever transfer to a different transferee is proposed at the same location, the 2:30 a.m.

nightclub permit may be transferred if the location is in the CBD, C-2, TSC, HC-2, or NC-2 zones and also in the conservation (CO) zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone, and if the transferee has the recommendation of the Police Chief and Alcoholic Beverage Administrator.

(Ord. O-34-92, passed 8-29-92)

(3) When a 2:30 a.m. permit holder in any zone except CBD, C-2, TSC, HC-2, or NC-2, and also in the conservation (CO) zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone, transfers the business to a new owner, the nightclub permit may be transferred subject to the approval of the 2:30 a.m. Permit Hearing Board.

(Ord. O-34-92, passed 8-29-92)

(K) Whenever an applicant to obtain or transfer a 2:30 a.m. permit has obtained city approval for a city alcoholic beverage license and is awaiting approval of a state alcoholic beverage license, and is operating validly under another state alcoholic beverage license, the applicant may operate under the newly obtained or transferred 2:30 a.m. permit while awaiting state approval.

('77 Code, § 410.13) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-84, passed 3-13-84; Am. Ord. O-28-84, passed 5-8-84; Am. Ord. O-32-85, passed 6-11-85; Am. Ord. O-85-85, passed 12-3-85; Am. Ord. O-71-88, passed 8-24-88; Am. Ord. O-7-89, passed 1-31-89; Am. Ord. O-37-91, passed 7-23-91; Am. Ord. O-30-98, passed 6-25-98) Penalty, see § 111.999

§ 111.033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ESTABLISHMENTS. A business within the city, where liquor, beer or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail malt beverage liquor license that has been issued by the city.

LICENSE. A retail drink liquor license or a retail malt beverage liquor license issued by the city.

LICENSEE. Any person to whom a retail drink liquor license or a retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.

LIQUOR ADMINISTRATOR. The duly appointed Alcoholic Beverage Control Administrator of the city.

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PREMISES. The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

(B) It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or when any

female appears on a business establishment's premises in such manner or attire as to expose to view portion of the breast referred to as the areola, nipple, or simulation thereof.

(C) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) In the event a violation of this section occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.

(Ord. O-9-83, passed 3-8-83) Penalty, see § 111.999

§ 111.034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED

(A) No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed liquor establishment.

(B) No employee or independent contractor of a licensed liquor establishment shall be compensated in any manner that is measured by a percentage or fraction of beer or liquor retail sales.

(Ord. O-15-86, passed 3-18-86; Am. Ord. O-32-91, passed 7-2-91) Penalty, see § 111.999

§ 111.035 CLOSE DOORS DURING HOURS OF OPERATION.

Establishments in the city licensed to sell or dispense alcoholic beverages by the drink shall be prohibited from allowing doors leading from the licensed premises to the public street to remain in the open position for any time period longer than is reasonably necessary to allow persons to enter or leave said establishment at all times during normal hours of operation, except between the hours of 9:00 a.m. and 9:00 p.m. However, the 9:00 a.m. to 9:00 p.m. exception shall not apply to places of entertainment where alcoholic beverages are sold including nightclubs, theaters, pool halls, billiard parlors and similar enterprises. The doors of these places of entertainment shall not remain in the open position throughout their hours of operation.

(Ord. O-55-86, passed 9-2-86; Am. Ord. O-60-86, passed 9-16-86; Am. Ord. O-84-86, passed 1-13-87; Am. Ord. O-41-87, passed 7-7-87; Am. Ord. O-36-91, passed 7-23-91) Penalty, see § 111.999

§ 111.036 ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

(Ord. O-18-90, passed 5-15-90) Penalty, see § 111.999

Nov. 4, 1990
Russell Colhoun

CITY OF COVINGTON

ALCOHOL BEVERAGE CONTROL

ORDINANCES

Alcoholic Beverages

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(D) Refund of license fee. If any billposter's license is surrendered by the licensee, or is revoked for cause, neither the licensee named in such license, nor any other person, shall be entitled to any refund of any part of the license fee.

(E) Revocation of billposter's license. The Board of Commissioners may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations or for violation of this subchapter or any other grounds specified by law. ('77 Code, §621.4 Sec. III) (Ord. passed 0-16-82, passed 3-16-82) Penalty, see §111.999

§ 111.005 BILLS AND POSTERS.

(A) Posting notices prohibited; exception. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole, or on any public structure or building, except as may be authorized or required by law.

(B) Advertisements on sidewalks prohibited. No person shall print or paint any signs or advertisements for any purpose whatsoever on the sidewalks of the city.

(C) Bill posting without property owner's consent prohibited. No person shall post, paint, burn, sit up, or expose any bill, placard, or advertisement, or cause the same to be posted, painted, burnt, set up, or exposed on the property or premises of any other person without first obtaining the consent of the legal owner or custodian of such property or premises.

(D) Removing or defacing bills prohibited. No person shall willfully or recklessly remove, tear down, deface, injure, or destroy any written or printed handbill, poster, or other notice or advertisement of like character legally posted or otherwise legally displayed, in any public place in this city, so long as the same shall be of value for the purposes thereof to the person who

posted or displayed the same, or caused it to be posted or displayed.

(E) Posting bills on utility poles. No person shall paint, post, paste, or otherwise in any manner attach any bills, posters, streamers, or display advertisements on any telephone, telegraph, or electric light poles located on the streets, thoroughfares, or alleys in the city.

(F) City employees to remove bills or advertisements.

(1) The employees of the Police Department and the employees of the General Services Department shall tear down or remove any bills, posters, or display advertisements in any manner attached to any telephone, telegraph, or electric light poles.

(2) This section shall not apply to traffic signs.

(G) Permits for signs and advertisements on and across streets. No person shall erect, hang, or display signs and advertisements for any purpose whatsoever on and across the streets and public thoroughfares of the city, without first obtaining a permit from the Board of Commissioners. ('77 Code, §621.4 Sec. IV) (Ord. 0-64-71, passed 12-9-71; Am. Ord. 0-16-82, passed 3-16-82) Penalty, see §111.999

ALCOHOLIC BEVERAGES

§ 111.020 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ALCOHOLIC BEVERAGES." Every liquid or solid, whether patented or not, containing alcohol, and capable of being consumed by human beings. It includes every spiritous or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

"BREWER." Any person who owns, occupies, carries on, works, or

conducts any brewery either by himself or by his agent.

"BREWERY." Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mashroom, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverages is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

"BUILDING CONTAINING LICENSED PREMISES." The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

"CITY ADMINISTRATOR." The City Alcoholic Beverage Control Administrator.

"DISTILLERY." Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.

"DISTRIBUTOR." Any person who distributes malt beverages for the purpose of being sold at retail.

"MALT BEVERAGES." Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242.

"NONPROFIT." These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501-c3.

"RETAILER." Any person who sells at retail any alcoholic beverage for the sale of which a license is required.

"SALE." Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage. ('77 Code, §410.01) (Ord. 0-6-82, passed 2-2-82; Am. Ord. 0-11-82, passed 2-16-82)

Statutory reference:
Alcoholic beverages, see KRS Title 20

§ 111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m.

(B) No distilled spirits or wine may be sold within the city between the hours of 1:00 a.m., Sunday, and 6:00 a.m., Monday.

(C) Malt beverages shall not be sold between the hours of 1:00 a.m., Sunday, and 1:00 p.m., Sunday.

(D) Exceptions.

(1) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1-1/2 hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine.

(2) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of 1:00 p.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink or wine by the drink.
('77 Code, §410.02) (Ord. 0-6-82, passed 2-2-82)

§ 111.022 USE OF REVENUE.

All moneys derived from the collection of license taxes provided for herein, shall be paid into and become a part of the general fund of the city.
('77 Code, §410.03) (Ord. 0-6-82, passed 2-2-82)

§ 111.023 CITY ADMINISTRATOR.

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law.

(B) City Administrator enforcement of section, duties, and rule-making powers.

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinance, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter in a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him, concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(C) Appointment; oath; bond. The City Administrator shall take office on his appointment and on taking the oath and on the execution of the bond for the faithful performance of his duties as required by law.

(D) Functions of City Administrator. The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(E) Action on license application; appeals.

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this chapter, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his recommendations thereon, and the reasons therefore, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state. ('77 Code, §410.04) (Ord. 0-6-82, passed 2-2-82)

Statutory reference:
Alcoholic beverages, see KRS Title 20
City Administrator, see KRS §241.160

§ 111.024 CLUBS, LODGES, AND FRATERNAL ORDERS.

(A) For the purpose of this section," "CLUB," "LODGE," or "FRATERNAL" order shall mean and include any club, lodge, or fraternal order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, or fraternal order.

(B) License required; nonresidential building.

(1) No club, lodge, or fraternal order shall engage in the business of selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) License application; issuance.

(1) Whenever any club, lodge, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous nonintoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

(a) The name and location of such club, lodge, or fraternal order;

(b) The names and addresses of the officers thereof;

(c) The date and character of its organization; and

(d) The approximate number of members in good standing, and shall, in addition thereto, be signed by the owner, or his agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he shall pass an order to that effect and thereupon the Finance Department shall issue to the applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

(D) License fee; proration; refunds.

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued by the Finance Department, shall pay to the city for the license, the sum of $150 per year.

(2) When the license is issued after August 1 of any year the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part of any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

(E) Display of license. When a license shall have been granted and issued under this section, the club, lodge, or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction, a copy thereof, to be kept or placed in some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The license shall remain on display during the period for which the license shall be granted.

(F) Forfeiture or revocation of license; hearing on charge. If any club, lodge, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control.
('77 Code, §410.05) (Ord. 0-6-82, passed 2-2-82) Penalty, see §111.999

§ 111.025 LICENSING OF SALE OR TRANSPORTATION BUSINESS.

(A) License required.

(1) No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on, or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(B) License application; contents. Any person desiring to engage in the business of distilling, wholesaling spiritous, vinous, or malt liquor, or to engage in the retail sale of same by package or

drink shall, before so doing, file with the City Administrator, an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockhholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein, has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years

preceding the date of application and that he has not had any license that has been issued to him for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) Certified check required; refund on rejection. All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) Change in fact situation after issuance of license; supplemental statements. If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) Conditions of premises.

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) Location of premises to be licensed.

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises that is located on the same street as and within 200 feet of a building occupied exclusively as a school,

hospital, or place of worship, without giving a ten-day, written notice to the governing authority of the school, hospital, or place of worship, setting forth the kind of license for which the applicant intends to apply. Such notice must be sent by registered mail through the post office of the United States of America, and the return registered mail receipt and a copy of the notice shall b attached to the application at the time application is made.

(2) This section shall not apply to a hotel, drug store, or private club which has been bona fide in business as a licensee at the location for not less than one year preceding the passage of the Alcoholic Control Administration Act of 1938.

(3) Measurement of the 200 foot distance referred to shall be taken or the street on which the licensee's premises are located in a straight line from the nearest property line of the real estate on which is located the building used for the school, hospital, or place of worship, to the nearest property line of the real estate on which is located the building for which a license is sough

(G) Qualification of licensee. No person shall become a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) Licenses; expiration date. All licenses issued under or pursuant to t provisions of this section shall expire on June 30 of each year.

(I) Prorate license fees.

(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months including the month in which the license is granted, until the following June 30 provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(J) License fees: The licensee engaged in the sale, possession, or distribution of spiritous, vinous, or malt liquors, shall pay the following fees

Distillers license	$ 500.00	per annum
Rectifiers	500.00	per annum
Blenders	500.00	per annum
Brewery license	500.00	per annum
Retail malt beverage	200.00	per annum
Wholesale liquor license	2000.00	per annum
Retail package liquor license	1000.00	per annum
Retail drink liquor license	600.00	per annum
Special private club liquor license	250.00	per annum
Special Sunday retail drink license	250.00	per annum
Distributors malt beverage license	300.00	per annum
Nonprofit organizations	25.00	per annum
Restaurant special wine license	300.00	per annum
Special temporary malt beverage	12.50	per month
Special temporary license	21.00	per week

Statutory reference:
City license fees, see KRS 243.070

(K) Retail liquor license includes maltous and vinous liquors. Where a licensee has been granted a retail license to sell liquor by the drink and has paid the license fee therefor, he shall be entitled to a license to sell and dispense maltous or vinous liquors without the payment of any additional fee for the license therefor. In this event, the license to sell and dispense maltous beverages shall be subject to the quota provisions of the city, the same as all other malt beverage retailer's licenses (retail malt beverage licenses).

(L) Contents of license. All licenses issued pursuant to §111.022 shall contain the following information:

(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 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 or suspended at any time pursuant to law.

(M) Display of license; duplicate licenses.

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of $5.

(N) License revocation.

(1) Any license issued pursuant to §111.022 may be revoked for the following causes:

(a) Conviction of the licensee or his agent or employee of selling any illegal beverages on the premises licensed;

(b) Making any false material statements in an application for a license; or

(c) Violation of the provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control.

(2) The existence of any delinquent or unpaid taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) Suspension of license.

(1) The City Administrator may, in his discretion, order a suspension of the license for any cause which he may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city.

(2) Any order of suspension so issued shall be subject to review by hearing on an appeal from the order within ten days after date of its issue to the State Department of Alcoholic Beverage Control, which appeal shall be prosecuted in the manner and form provided for by the Alcoholic Beverage Control Act.

(P) Issuance of license after revocation. Any person who has suffered a revocation of a license to do business under the provisions of

§111.022 shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) Conditions of accepting license. All licenses issued pursuant to §111.022 shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search and to the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state, and consent to the introduction of such articles or things in evidence in any prosecution that may be brought involving their necessary use.

(2) The licensee holding a license pursuant to this chapter shall not sell any spiritous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating shall be unlawful and is forbidden.

(5) No spiritous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be drunk on the premises any spiritous or vinous liquors or mixtures thereof between the hours of 1:00 a.m. and 6:00 a.m. or any time during the 24 hours of a Sunday, or on any regular or primary election day, while the election polling places are open. In the event the licensee hereunder is the holder of a malt liquor license only, he shall not keep his place of business open between 1:00 a.m. and 6:00 a.m. nor shall he keep his place of business open on Sunday between 1:00 a.m. and 1:00 p.m. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) Registration, photographing, and fingerprinting of employees.

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register, or be fingerprinted and photographed.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours, shall require those persons so employed by the contractor to wear an ID card which shall only list the persons's name, address, and date of birth.

(S) License quota.

(1) The number of malt beverage retailer's licenses (retail malt beverage licenses) issued by the Alcoholic Beverage Administrator of the city shall not exceed a number equal to one for every 500 persons resident in the city.

(2) In order that the fixed and approved standard of population as prescribed in division (1) above may be adopted, the annual estimates of population for the city shall be based on the most recent United States governmental census figures of population.

(3) This regulation shall not prohibit renewal of licenses. The present number of licenses shall be reduced in conformity with this regulation, as licenses are revoked or surrendered.

(4) The Alcoholic Beverage Administrator of the city may, in his discretion, issue malt beverage licenses in excess of the number herein provided where the license is for a restaurant which receives 60% or more of its gross annual income from the sale of food and has a minimum seating capacity of 100 people at tables, subject to any other regulations adopted by the state Alcoholic Beverage Control Board and the local Alcoholic Beverage Administrator. Licenses issued under this exception are not subject to transfer to other premises. ('77 Code, §410.06) (Ord. 0-6-84, passed 2-28-84; Am. Ord. 0-17-84, passed 3-13-84; Am. Ord. 0-46-84, passed 8-14-84; Am. Ord. 0-67-85, passed 9-3-85) Penalty, see §111.999

§ 111.026 WHOLESALE DISTRIBUTION AND SALES.

(A) Definition. As used in this section, "DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES," shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) Nonalcoholic beverages exempted. This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) License required. No person shall engage in the business of distribution or sale by wholesale, of any cereal, malt, or vinous beverage,

without first having obtained a license therefor.

(D) License fee; separate places; expiration date.

(1) Any person desiring to engage in the distribution or sale by wholesale, of any cereal, malt, or vinous beverage shall first obtain from the Finance Department a license therefor, for which he shall pay the sum of $200 per year.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional $200 per year for each separate place of business or warehouse, agent, distributor, broker, or jobber.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next, after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) Hours of operation restricted.

(1) No person shall distribute and sell by wholesale any cereal, malt, or vinous beverages between the hours of 7:00 p.m. and 6:00 a.m. except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(F) Distributor's license.

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in the licensed premises to other distributors, to retailers, or to consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.
('77 Code, §410.07) (Ord. 0-6-82, passed 2-2-82; Am. Ord. 0-18-82, passed 3-16-82) Penalty, see §111.999

§ 111.027 SUPPLEMENTAL RETAIL DRINK LIQUOR LICENSES.

(A) A supplemental bar license may be issued to a holder of a retail drink liquor license upon a showing to the City Alcoholic Beverage Control Administrator of good cause and need for the supplemental license, and upon payment of a fee equivalent to the amount of the annual license fee paid by the licensee. This supplemental license may only be issued for use on the premises for which the applicant's existing retail drink liquor license was issued.

(B) Retail drink liquor license-supplemental shall not be considered in determining the quota of the city for regular retail drink liquor licenses.
('77 Code, §410.8) (Ord. 0-6-82, passed 2-2-82)

§ 111.028 PACKAGE RETAIL LIQUOR OUTLET.

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Manager with a drawing of

his normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE $100.00, MAXIMUM FINE $500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnershp or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above shall be exempt from the provisions hereof.
('77 Code, §410.09) (Ord. 0-6-82, passed 2-2-82) Penalty, see §111.999

§ 111.029 PRIVATE CLUB LICENSE.

(A) A special private club license may be issued to any nonprofit social, fraternal, military, or political organization or club, which for more than one year prior to the date of application has maintained and operated a clubroom or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail licensee shall apply to the special club licensee. Such a special club licensee shall also be available as a malt beverage retail license.

(B) No person shall do any act authorized by any kind of license with respect to the sale, manufacture, storage, purchase, transporting, or other trafficking in alcoholic beverages of any kind whether they be distilled spirits, wine, or malt beverage unless he holds the appropriate state and city license.

(C) The following kinds of distilled spirits, wine, and malt beverage licenses may be issued by the city agency or administrator authorized to issue such licenses and the fees shall be as follows.

(1) Special malt beverage license for nonprofit, $25.00.

(2) Special temporary license per month, or part of month, $12.50.

(3) Special private club license per annum, $150.00.
('77 Code, §410.10) (Ord. 0-6-82, passed 2-2-82) Penalty, see §111.999

§ 111.030 RESTAURANT SPECIAL WINE LICENSE.

(A) Establishment of license.

(1) There is established and adopted a restaurant special wine license within the city. A restaurant special wine license may be issued to an applicant who is an owner or lessee of a restaurant which receives 50% or more of its gross annual income from the sale of food and has a minimum seating capacity of 50 people at tables. The issuance of such a license shall be subject to the limitations of KRS 241.060(2) and KRS 241.065.

(2) A restaurant special wine license shall authorize a licensee to purchase, receive, and sell wine at retail for consumption on the licensed premises. The licensee shall purchase wine only from licensed wholesalers.

(B) License fee. The fee for a restaurant special wine license is established as $300 per annum and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from

the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.
('77 Code, §410.11) (Ord. 0-6-82, passed 2-2-82; Am. Ord. 0-18-82, passed 3-16-82) Penalty, see §111.999

§ 111.031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) Establishment. There is hereby established a city special Sunday retail drink license, pursuant to the authority granted by KRS 243.070.

(B) Restrictions. The holder of the special Sunday retail drink license shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City Alcoholic Beverage Administrator.

(C) Fee. The fee for the special Sunday retail drink license shall be $150 per year and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.
('77 Code, §410.12) (Ord. 0-6-82, passed 2-2-82; Am. Ord. 0-18-82, passed 3-16-82) Penalty, see §111.999

§ 111.032 NIGHTCLUB PERMITS.

(A) Permit required. No person shall operate or maintain a business enterprise permitting the sale, exchange, or transfer of spiritous, vinous, malt, or alcoholic mixtures thereof between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining a nightclub permit from the Board of Commissioners.

(B) Eligibility and qualifications of holder and grandfather clause.

(1) All applications shall be in writing and made directly to the City Manager. The City Manager shall request a confidential police report and recommendation from the Chief of Police with respect to the considered applicant's eligibility and the written certification of approval from the Zoning Administrator.

(2) In order to be eligible for a nightclub permit, the applicant must have a current and valid city and state alcoholic beverage license for the sale of liquor by the drink or retail.

(3) Package sales licensees shall not be eligible for a nightclub permit.

(4) All fees and license charges in connection with the applicant's business enterprise due the city, including annual minimum occupational license, must be paid before an applicant shall be considered.

(5) Effective on the passage of this section, no new permit shall be issued without the written certification of the Zoning Administrator on the application that the proposed site requesting issuance of the permit is located within one of the following zones:

(a) Central Business (CBD)

(b) General Commercial 2 (C2)

(c) Tourist Service Commercial (TSC)

(d) Highway Commercial 2 (HC2)

(e) Conservation (CO), but only when adjacent to a commercial, office, or industrial zone.

(6) No applicant shall be granted a nightclub permit who has been convicted of any felony or misdemeanor relating to the use of alcoholic beverages within two years prior to submission of application.

(7) No applicant shall be granted a nightclub permit unless the person is an actual resident of the state or a corporation licensed to do business within the Commonwealth of Kentucky.

(8) Persons holding nightclub permits prior to the enactment of this section and also those businesses holding a liquor by the drink license and located in the area annexed to the city by Ordinance 0-47-76, adopted June 10, 1976, shall be granted the privilege of continued operation without regard to the zoning requirements of division (5) above. All future transfers of existing nightclub permits at the same location will be honored if the transfers meet the approval of the Police Chief and the Alcoholic Beverage Administrator of the City.

(C) Permit fee. The fee for a nightclub permit shall be $1,600 per year, payable on or before February 1 of each year.

(D) Proration of fees. Fees collected for the purchase of nightclub permits, whether original permits or transfer of existing permits, shall be due and prorated on a monthly basis if the application is received and awarded during the license year; however, no nightclub permit shall be issued or transferred for less than 50% of the annual fee therefor.

(E) Disposition of revenue. The proceeds of the permit fees collected under this section shall be deposited in the city's general fund account.

(F) All applications and permits issued pursuant to the provisions of this section shall contain the following:

(1) Name and address of applicant;

(2) Number of the permit;

(3) Type of permit;

(4) Street address of the premises which holds the permit;

(5) The name and address of the owner of the building in which the permit is located;

(6) The expiration date of the permit; and

(7) A statement that the permit shall not be a property right, and that it may be revoked or suspended at any time, pursuant to the law.

(G) Conditions of permit. All permits issued pursuant to this section shall be accepted by the applicant subject to the following:

(1) That the premises shall be subject to the entry of police and other duly authorized representatives of the city at all reasonable hours for the purposes of inspection and at all times during the operation of the premises.

(2) That the licensed premises shall, at all times, be conducted in an orderly manner and no indecent conduct shall be allowed at any time, nor shall violations of any law be permitted thereon.

(3) That no spiritous, vinous, or malt liquors shall be sold or dispensed to any minor. No licensee shall sell, give away, furnish, or permit to be drunk on the premises any spiritous, vinous, or malt liquors or any mixtures thereof between the hours of 2:30 a.m. and 6:00 a.m., or at any time during the hours of a Sunday after 2:30 a.m., or on any regular or primary election day while the election polling places are open. During the time periods referred to herein no person shall be present on the premises of the establishment licensed for the sale of alcoholic beverages except the owner or his authorized employees and agents.

(H) Specific regulations for 2:30 a.m. permit holders.

(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone.

(2) All 2:30 a.m. permit holders shall make every reasonable effort to arrange for orderly closing of the establishment, including, but

not limited to, instructions to customers that they should depart the premises in a quiet and orderly fashion.

(3) All 2:30 a.m. permit holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

(4) All 2:30 a.m. permit holders shall comply with all city building and zoning codes, including the state-wide building code, the city's sign regulations, and all life safety code provisions, and all alcoholic beverage control ordinances, statutes, and regulations.

(I) Hearing provision.

(1) There is hereby established a city 2:30 a.m. Permit Hearing Board consisting of the Police Chief, the local Alcoholic Beverage Administrator, and a citizen of the city.

(2) It will be the responsibility of this Board to investigate and hear cases arising from allegations of violation of this or other state or federal laws by a 2:30 a.m. permit holder. This Board will conduct hearings upon verified complaints from citizens or upon its own motion, or on complaints received by the police officers or other enforcement personnel regarding the violation of law by a 2:30 a.m. permit holder.

(3) The 2:30 a.m. Permit Hearing Board shall have the responsibility for investigating and hearing complaints and it shall have the authority to recommend suspension or revocation of a 2:30 a.m. permit where it finds violations of this section or other applicable law.

(4) The 2:30 a.m. Permit Hearing Board shall conduct an annual review before the renewal of any 2:30 a.m. license and if it is determined that probable cause exists that the 2:30 a.m. permit holder is in violation of regulations established by this section or state or federal law, then that Board shall recommend to the Mayor and Board of Commissioners that the violating permit holder be denied a renewal of his permit or be given a suspension of his permit.

(5) The 2:30 a.m. permit holder will have the opportunity to present evidence in his own defense at any hearings conducted by the 2:30 a.m. Permit Hearing Board and shall have the right to be represented by an attorney at law, and the proceeding shall be mechanically or stenographically recorded. Any party desiring to have a court reporter shall be responsible for the cost of the court reporter. The findings of the 2:30 a.m. Permit Hearing Board are advisory in nature and will be used by the Mayor and Board of Commissioners in determining whether a 2:30 a.m. permit should be revoked or if an application for renewal should be denied or suspended.

(6) The 2:30 a.m. permit holder or the complainant may appeal the decision of the 2:30 a.m. Permit Hearing Board by filing a notice of appeal with the City Clerk within ten days of the date of the written decision of the 2:30 a.m. Permit Hearing Board.

(a) The appellant shall be responsible for having the mechanically recorded transcript typed and submitted to the City Clerk within 30 days of the date of the notice of appeal. Five copies of the typed transcript as well as any other written memoranda shall be submitted by the appellant to the City Clerk for forwarding to the Mayor and Board of Commissioners no later than 45 days from the date of the notice of appeal.

(b) The appellee shall have 15 days from the date of the filing of the appellant's transcript and memoranda to file a reply brief or any other argument in response to appellant's brief.

(c) The Mayor and Board of Commissioners may affirm, deny, amend, or remand the findings of the 2:30 a.m. Permit Hearing Board based upon the transcript and the written memoranda of appellant and appellee. In addition, it shall be discretionary with the Mayor and Board of Commissioners as to whether oral arguments will be permitted to aid the Mayor and Board of

Commissioners in reaching their decision.

(d) The findings of the Mayor and Board of Commissioners will be reduced to writing and their decision shall be appealable to the court having proper jurisdiction.

(J) Transferability.

(1) An individual holding a 2:30 a.m. nightclub permit may transfer that permit to a new location which he will own and operate, if it falls within the CBD, C2, TSC, or HC2 zones, and also in the Conservation (CO) Zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone.

(2) Whenever transfer to a different transferee is proposed at the same location, the 2:30 a.m. nightclub permit may be transferred if the location is in the CBD, C2, TSC, or HC2 zones and also in the Conservation (CO) Zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone, and if the transferee has the recommendation of the Police Chief and the Alcoholic Beverage Administrator.

(3) When a 2:30 a.m. permit holder in any zone, except CBD, C2, TSC, or HC2, and also in the Conservation (CO) Zone, but only when said CO zone is adjacent to a commercial, office, or industrial zone, transfers the business to a new owner, the nightclub permit may be transferred subject to the approval of the 2:30 a.m. Permit Hearing Board. ('77 Code, §410.13) (Ord. 0-6-82, passed 2-2-82; Am. Ord. 0-18-84, passed 3-13-84; Am. Ord. 0-28-84, passed 5-8-84; Am. Ord. 0-32-85, passed 6-11-85; Am. Ord. 0-85-85, passed 12-3-85) Penalty, see §111.999

§ 111.033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BUSINESS ESTABLISHMENTS." A business within the city, where liquor, beer or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail malt beverage liquor license that has been issued by the city.

"LICENSE." A retail drink liquor license or a retail malt beverage liquor license issued by the city.

"LICENSEE." Any person to whom a retail drink liquor license or a retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.

"LIQUOR ADMINISTRATOR." The duly appointed Alcoholic Beverage Control Administrator of the city.

"PERSON." A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

"PREMISES." The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

(B) It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation

thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view portion of the breast referred to as the areola, nipple, or simulation thereof.

(C) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) In the event a violation of this section occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.
(Ord. 0-9-83, passed 3-8-83)
Penalty, see §111.999

§ 111.034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED.

No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by the employee or independent contractor of the licensed liquor establishment.
(Ord. 0-15-86, passed 3-18-86)
Penalty, see § 111.99

§ 111.035 CLOSE DOORS DURING HOURS OF OPERATION.

Roll Call

COMMISSIONERS' ORDINANCE NO. O- 41 -87

AN ORDINANCE AMENDING SECTION 111.035, AS AMENDED, OF THE CITY OF COVINGTON CODE, 1984 EDITION, ENTITLED "CLOSE DOORS DURING HOURS OF OPERATION" TO PERMIT THOSE ESTABLISHMENTS IN THE CITY OF COVINGTON LICENSED TO SELL OR DISPENSE ALCOHOLIC BEVERAGES BY THE DRINK TO ALLOW DOORS TO BE OPEN BETWEEN THE HOURS OF 9:00 A.M. TO 9:00 P.M.

* * *

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Section 111.035, as amended, of the City of Covington Code, 1984 edition, entitled "Close Doors During Hours of Operation" be and is hereby amended to permit those establishments in the City of Covington licensed to sell or dispense alcoholic beverages by the drink to allow doors to the establishment to be open between the hours of 9:00 a.m. and 9:00 p.m.; which amendment shall read as follows:

CHAPTER 111: REGULATIONS GOVERNING SPECIFIC BUSINESSES

ALCOHOLIC BEVERAGES

111.035 CLOSE DOORS DURING HOURS OF OPERATION.

All establishments in the City of Covington, Kentucky, licensed to sell or dispense alcoholic beverages by the drink, shall be prohibited from allowing all doors leading from the licensed premises to the public street to remain in the open position for any time period longer than is reasonably necessary to allow persons to enter or leave said establishment at all times during normal hours of operation, except between the hours of 9:00 a.m. and 9:00 p.m.

Section 2

That any ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 3

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

MAYOR

ATTEST:

Acting CITY CLERK

RH

Passed: 6-23-87 (first reading)

7-7-87 (second reading) special

$10.00 nor more than $100.00 for each offense.

Section 2

That any section or part of a section or any provision of this ordinance which is declared by a court of appropriate jurisdiction, for any reason, to be invalid, such decision shall not affect or invalidate the remainder of this ordinance.

Section 3

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

_____
MAYOR

ATTEST:

_____
CITY CLERK

Passed: 4/12/90 (first reading)

_____ (second reading)

COMMISSIONERS' ORDINANCE NO. O-6-88

AN ORDINANCE AMENDING SECTION 111.021(A) OF THE CITY OF COVINGTON CODE, 1984 EDITION, ENTITLED "HOURS OF OPERATION", TO FURTHER PROVIDE THAT NO PERSON SHALL BE PERMITTED TO REMAIN WITHIN THE LICENSED PREMISES BETWEEN THE HOURS OF 1:00 A.M. AND 6:00 A.M. OTHER THAN BAR EMPLOYEES OR SUBCONTRACTORS WHILE PERFORMING WORK ON THE LICENSED PREMISES INCLUDING BUT NOT LIMITED TO PLUMBING, CLEANING, OR ELECTRICAL REPAIR.

* * *

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Section 111.021(A) of the City of Covington Code, 1984 edition, entitled "Hours of Operation" which pertains to establishments licensed to sell alcoholic beverages, is hereby amended to further provide that no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar employees or subcontractors while performing work on the licensed premises including but not limited to plumbing, cleaning, or electrical repair; which section shall read as follows:

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111. REGULATIONS GOVERNING SPECIFIC BUSINESSES

ALCOHOLIC BEVERAGES

111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m. and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar employees or subcontractors while performing work on the licensed premises including but not limited to plumbing, cleaning, or electrical repair.

Section 2

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

Denny Bowman
MAYOR

ATTEST:

Carol Little
CITY CLERK

Passed: 1-26-88 (first reading)

COMMISSIONERS' ORDINANCE NO. O- 18 -90

AN ORDINANCE AMENDING CHAPTER 111: REGULATIONS GOVERNING SPECIFIC BUSINESSES - ALCOHOLIC BEVERAGES, OF THE CITY OF COVINGTON CODE, 1984 EDITION, TO PROVIDE THAT ALL LICENSED RETAIL VENDORS OF ALCOHOLIC BEVERAGES SHALL POST A PRINTED SIGN WARNING THAT DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS AT SECTION 111.036, AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF AT SECTION 111.999.

* * *

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Chapter 111: Regulations Governing Specific Businesses - Alcoholic Beverages, of the City of Covington Code, 1984 edition, is hereby amended to provide that all licensed retail vendors of alcoholic beverages shall post a printed sign warning that drinking alcoholic beverages during pregnancy can cause birth defects at Section 111.036, and providing a penalty for the violation thereof at Section 111.999, which shall read as follows:

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111. REGULATIONS GOVERNING SPECIFIC BUSINESSES

ALCHOLIC BEVERAGES

111.036 ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

111.999 PENALTY.

Alcohlic Beverages

(8) Any person found to be in violation of the provisions of 111.036 shall, upon conviction thereof, be fined not less than

in Boone Co. 2010

CITY OF COVINGTON, KENTUCKY CODE OF ORDINANCES

ALCOHOLIC BEVERAGES

§ 111.020 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Every liquid or solid, whether patented or not, containing alcohol, and capable of being consumed by human beings. It includes every spirituous or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

BREW-ON-PREMISES ESTABLISHMENT. Any establishment that has been granted a license pursuant to the provisions of § 111.030 to provide ingredients, equipment, and assistance permitted by § 111.030 to a customer to brew malt beverages on the premises of the establishment.

BREWER. Any person who owns, occupies, carries on, works, or conducts any brewery either by himself, herself or by his or her agent.

BREWERY. Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mashroom, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverage is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

BUILDING CONTAINING LICENSED PREMISES. The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

CITY ADMINISTRATOR. The City Alcoholic Beverage Control Administrator.

CUSTOMER. Any person at least 21 years old.

DISTILLERY. Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.

DISTRIBUTOR. Any person who distributes malt beverages for the purpose of being sold at retail.

MALT BEVERAGES. Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242.

Week Days 6AM - 1:00AM or 2:30AM w/ license
Sunday Drink = 11AM - 1:00AM or 2:30AM w/lic.
Sunday PKG = 11AM - 1:00AM

NONPROFIT. These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).

RETAILER. Any person who sells at retail any alcoholic beverage for the sale of which a license is required.

SALE. Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

('77 Code, § 410.01) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-11-82, passed 2-16-82; Am. Ord. O-27-97, passed 9-2-97)

Statutory reference:
Alcoholic beverages, see KRS Chapters 242 - 244

§ 111.021 HOURS OF OPERATION.

(A) A licensed premises shall not be permitted to remain open for any purpose between the hours of 1:00 a.m. and 6:00 a.m., and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 a.m. other than bar owners, employees or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair.

(B) Malt beverages shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(C) Distilled spirits and wine by the package shall not be sold between the hours of 1:00 a.m., Sunday, and 11:00 a.m., Sunday.

(D) *Exceptions.*

(1) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of 11:00 a.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink or wine by the drink.

(2) Those premises which have obtained a 2:30 a.m. permit may remain open an additional 1½ hours between the hours of 1:00 a.m. and 2:30 a.m. and are permitted to sell malt beverages, distilled spirits, and wine.

('77 Code, § 410.02) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-6-88, passed 2-9-88; Am. Ord. O-14-01, passed 4-3-01; Am. Ord. O-64-04, passed 11-09-04; Am. Ord. O-16-06, passed 4-11-06)

§ 111.022 USE OF REVENUE.

All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.

('77 Code, § 410.03) (Ord. O-6-82, passed 2-2-82)

§ 111.023 CITY ADMINISTRATOR.

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law.

(B) The compensation to be paid the City Administrator shall be established by the city's annual salary ordinance.

(C) The bond for the City Administrator shall be in the same form and amount as required for the City Manager.

(Ord. O-13-94, passed 4-12-94)

(D) *City Administrator enforcement of section, duties, and rule-making powers.*

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinance, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter in a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him or her concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him or her, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(E) *Appointment; oath; bond.* The City Administrator shall take office on his or her appointment and on taking the oath and on the execution of the bond for the faithful performance of his or her duties as required by law.

(F) *Functions of City Administrator.* The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(G) *Action on license application; appeals.*

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this chapter, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his or her recommendations thereon, and the reasons therefore, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state.

('77 Code, § 410.04) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94)

Statutory reference:
Alcoholic beverages, see KRS Chapters 242 et seq.

City Administrator, see KRS 241.160

§ 111.024 CLUBS, LODGES, AND FRATERNAL ORDERS.

(A) *Definitions.* For the purpose of this section, ***CLUB, LODGE,*** or ***FRATERNAL ORDER*** shall mean and include any club, lodge, or fraternal order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, or fraternal order.

(B) *License required; nonresidential building.*

(1) No club, lodge, or fraternal order shall engage in the business of selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) *License application; issuance.*

(1) Whenever any club, lodge, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous nonintoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

(a) The name and location of such club, lodge, or fraternal order;

(b) The names and addresses of the officers thereof;

(c) The date and character of its organization; and

(d) The approximate number of members in good standing, and shall, in addition there to be signed by the owner, or his or her agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he or she shall pass an order to that effect and thereupon the Finance Department shall issue to the applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

(D) *License fee; proration refunds.*

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued by the Finance Department, shall pay to the city for the license, the sum of $150 per year.

(2) When the license is issued after August 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part o f any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

(E) *Display of license.* When a license shall have been granted issued under this section, the lodge or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction, a copy thereof to be kept or placed is some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The license shall remain on display luring the period for which the license shall be granted.

(F) *Forfeiture or revocation of license; hearing on charge.* If any club, lodge, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control.

('77 Code § 410.05) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.025 LICENSING AND HEARINGS.

(A) *License required.*

(1) No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(B) *License application; contents.* Any person desiring to engage in the business of distilling, wholesaling spiritous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink shall, before so doing, file with the City Administrator an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) *Location of premises to be licensed.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises that is located on the same street as and within 200 feet of a building occupied exclusively as a school, hospital, or place of worship, without giving a ten-day, written notice to the governing authority of the school, hospital, or place of worship, setting forth the kind of license for which the applicant intends to apply. Such notice must be sent by registered mail through the post office of the United States, and the return registered mail receipt and a copy of the notice shall be attached to the application at the time application is made.

(2) The section shall not apply to a hotel, drug store, or private club which has been bona fide in business as a licensee at the location for not less than one year preceding the passage of the Alcoholic Control Administration Act of 1938.

(3) Measurement of the 200 foot distance referred to shall be taken on the street on which the licensee's premises are located in a straight line from the nearest property line of the real estate on which is located the building used for the school, hospital, or place of worship, to the nearest property line of the real estate on which is located the building for which a license is sought.

(G) *Qualification of licensee.* No person shall be come a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

(I) *Prorate license fees.*

(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:

(1) Malt beverages:

Brewer's license, per annum $500.00

Microbrewery license, per annum $500.00

Distributor's license, per annum $300.00

Retailer's license, per annum $200.00

Special temporary license, per month $12.50

(2) Distilled spirits and wine:

Distiller's license, per annum $500.00

Rectifier's license, per annum $500.00

Blender's license, per annum $500.00

Wholesaler's license, per annum $2,000.00

Retail package license, per annum $1,000.00

Retail drink license, per annum $600.00

Special temporary license per week $21.00

Special private club license, per annum $250.00

Special Sunday retail drink license $250.00

Nonresident, special agent or solicitor's license, per annum $40.00

Restaurant wine license, per annum $400.00

Temporary wine license, per week $12.50

Caterer's license, per annum $400.00

Supplemental bar license, per annum $600.00

(3) Brew-on-Premises

Brew-on-premises license, per annum $500.00

Statutory reference:
City license fees, see KRS 243.070

(K) *Retail liquor license includes maltous and vinous liquors.* Where a licensee has been granted a retail license to sell liquor by the drink and has paid the license fee therefor, he or she shall be entitled to a license to sell and dispense maltous or vinous liquors without the payment of any additional fee for the license therefor. In this event, the license to sell and dispense maltous beverages shall be subject to the quota provisions of the city, the same as all other malt beverage retailer's licenses (retail malt beverage licenses).

(L) *Contents of license.* All licenses issued pursuant to § 111.022 shall contain the following information:

(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 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 or suspended at any time pursuant to law.

(M) *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of $5.

(N) *License revocation or suspension.*

(1) Any license issued pursuant to §§ 111.021 et seq. may be revoked or suspended by the City Administrator, after complying with the hearing requirements below, for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) If the licensee makes any false material statements in an application for a license; or

(c) If the licensee violates any provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control.

(d) Conviction of the licensee of any felony; or

(e) Conviction of the licensee, or his or her agent who controls or operates the licensee's premises, of any offense pertaining to prostitution, illegal gambling, knowingly possessing or receiving stolen property, sale or use of illegal drugs, or the illegal sale or use of controlled substances or prescription drugs; or

(f) If the licensee allows the premises to be used as the site for any criminal activity nuisance as defined by § 92.10;

(g) If the licensee allows the premises to be used as the site for any public nuisance as defined in § 92.05;

(h) If licensee allows the premises to be used as the site for a unlicensed sexually oriented business; or

(i) If the licensee is delinquent or in default of an obligation to pay a loan, fine, lien or other financial obligation to the city, then license is subject to suspension until the obligation is satisfied.

(2) The existence of any delinquent or unpaid city taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.* The City Administrator may, after a hearing, order a suspension of the license for up to 180 days for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city. The suspended licensee may pay a fine of $50 per day in lieu of the suspension, subject to the approval of the City Administrator. The City Administrator shall issue a written order of such suspension via regular United States mail to the licensee's address indicated on the license.

(P) *Issuance of license after revocation.* Any person, partnership, LLC, or other corporate entity who has suffered, or any of its members or partners have suffered, a revocation of a license to do business under the provisions of §§ 111.022 *et seq.* shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to §§ 111.022 *et seq.* shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search, and for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state.

(2) The licensee holding a license pursuant to this chapter shall not sell any spiritous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in, or allowing customers to engage in, fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating, or giving away alcoholic beverages at no cost to the customer, shall be unlawful and is forbidden.

(5) No spiritous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed on the premises any spiritous or vinous liquors or mixtures thereof during hours when the sale of alcoholic beverages is prohibited. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) *Registration, photographing, and fingerprinting of employees.*

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of $5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional $5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.

(S) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

(T) *Hearings.* Revocation or suspension proceedings shall be governed as follows.

(1) *Notice of hearings.* The City Administrator shall provide written notice, via regular United States mail or hand delivery to the licensee, notice of any hearing related to the possible suspension or revocation of the licensee's alcoholic beverage license. The address provided by the licensee to the city on its license application shall be deemed the address for notice of hearing. The licensee shall notify the city of any change of address subsequent to the submission of an application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted a City Hall at least 24 hours prior to the hearing.

(2) *Procedure.*

(a) The City Administrator shall be the hearing officer for any proceedings related to the possible suspension or revocation of any city alcoholic beverage license.

(b) Any hearing before the City Administrator shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS 13B.080 and 13B.090.

(c) The City Solicitor, or his or her designee, shall represent the city at the hearing. The licensee has a right to retain counsel for representation at the hearing.

(d) The City Administrator shall issue a written decision, including findings of fact and conclusions of law, within seven days of the conclusion of the hearing.

(3) *Appeals.* Any order of suspension or revocation issued by the City Administrator may be appealed to the State Alcoholic Beverage Control Board within 30 days of the date of the order.

('77 Code, § 410.06) (Ord. O-6-84, passed 2-28-84; Am. Ord. O-17-84, passed 3-13-84; Am. Ord. O-46-84, passed 8-14-84; Am. Ord. O-67-85, passed 9-3-85; Am. Ord. O-81-86, passed 12-16-86; Am. Ord. O-6-89, passed 1-31-89; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-27-97, passed 9-2-97; Am. Ord. O-44-98, passed 9-15-98; Am. Ord. O-24-08, passed 8-19-08) Penalty, see § 111.999

§ 111.026 WHOLESALE DISTRIBUTION AND SALES.

(A) *Definition.* As used in this section, ***DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES*** shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) *Nonalcoholic beverages exempted.* This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) *License required.* No person shall engage in the business of distribution or sale by wholesale of any cereal, malt, or vinous beverage, without first having obtained a license therefor.

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the Finance Department a license therefor, for which he or she shall pay the license fees as provided in this chapter.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse, agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this chapter.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next, after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) *Hours of operation restricted.*

(1) No person shall distribute and sell by wholesale any cereal, malt, or vinous beverages between the hours of 7:00 p.m. and 6:00 a.m. except on Saturdays when the hours of such deliveries shall be between 6:00 a.m. and midnight.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(F) *Distributor's license.*

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in the licensed premises to other distributors, to retailers, or to consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

('77 Code, § 410.07) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.027 SUPPLEMENTAL RETAIL DRINK LIQUOR LICENSES.

(A) A supplemental bar license may be issued to a holder of a retail drink liquor license upon a showing to the City Alcoholic Beverage Control Administrator of good cause and need for the supplemental license, and upon payment of a fee equivalent to the amount of the annual license fee paid by the licensee. This supplemental license may only be issued for use on the premises for which the applicant's existing retail drink liquor license was issued.

(B) Retail drink liquor license - supplemental shall not be considered in determining the quota of the city for regular retail drink liquor licenses.

('77 Code, § 410.08) (Ord. O-6-82, passed 2-2-82)

§ 111.028 PACKAGE RETAIL LIQUOR OUTLET.

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his or her business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Manager with a drawing of his or her normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall

post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE $100.00, MAXIMUM FINE $500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnership, or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above, shall be exempt from the provisions hereof.

('77 Code, § 410.09) (Ord. O-6-82, passed 2-2-82) Penalty, see § 111.999

§ 111.029 PRIVATE CLUB LICENSE.

(A) A special private club license may be issued to any nonprofit social, fraternal, military, or political organization or club, which for more than one year prior to the date of application has maintained and operated a clubroom or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail licensee shall apply to the special club licensee. Such a special club licensee shall also be available as a malt beverage retail license.

(B) No person shall do any act authorized by any kind of license with respect to the sale, manufacture, storage, purchase, transporting, or other trafficking in alcoholic beverages of any kind whether they be distilled spirits, wine, or malt beverage unless he or she holds the appropriate state and city license.

('77 Code, § 410.10) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-13-94, passed 4-12-94) Penalty, see § 111.999

§ 111.030 BREW-ON-PREMISES LICENSE.

(A) No person shall operate or maintain a brew-on-premises establishment without first obtaining a license to do so from the Finance Department. A license shall be granted if an applicant meets the provisions of this section.

(B) A brew-on-premises license may be authorized to provide:

(1) Instruction, advise, expertise, space, equipment, ingredients, and bottling supplies for a customer in brewing malt beverages at the licenses premises;

(2) Assistance to customers, including:

(a) Moving containers of beer between storage areas;

(b) Cleaning, maintaining, and repairing brewing and bottling equipment;

(c) Maintaining climate and temperature control;

(d) Disposing of spent grains and waste; and

(e) Quality control, including laboratory analysis of malt beverages;

(3) Filtering and carbonation of malt beverages.

(C) A licensee and his or her employees shall not provide physical assistance to, or on behalf of, the customer in the production or bottling of malt beverages, except as otherwise permitted by statue or administrative regulation.

(D) Malt beverages produced under this license shall:

(1) Be removed from the premises by the customer upon completion of bottling for personal or family use, including use in organized fairs, exhibitions, or competitions; and

(2) Not be sold or offered for sale by the customer.

(E) A customer may produce malt beverages for personal or household use on the premises of the brew-on-premises license. The production of malt beverages per household shall not exceed:

(1) One hundred gallons per year for a household with one adult at least 21 years of age in permanent residence; or

(2) Two hundred gallons per year for a household with two or more adults at least 21 years of age in permanent residence.

(F) A license issued pursuant to this section shall not be:

(1) A quota license as defined in 804 KAR 9:010; and

(2) Transferable to another premises.

(G) The brew-on-premises licensee shall maintain records on customers and gallons brewed for at least two years. Records shall be kept on the premises of the licensed establishment and shall be subject to inspection by the City Administrator for compliance with provisions of this section.

(Ord. O-27-97, passed 9-2-97)

§ 111.031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) *Establishment.* There is hereby established a city special Sunday retail drink license, pursuant to the authority granted by KRS 243.070.

(B) *Restrictions.* The holder of the special Sunday package and retail drink license shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail licenses shall be governed by § 111.021 that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this chapter and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

('77 Code, § 410.12) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-82, passed 3-16-82; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-16-06, passed 4-11-06) Penalty, see § 111.999

§ 111.032 2:30 A.M. PERMITS.

(A) *Permit required.* No person shall operate or maintain a business enterprise permitting the sale, exchange, or transfer of spirituous, vinous, malt, or alcoholic mixtures thereof between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining a 2:30 a.m. permit from the city Alcoholic Beverage Control Board (ABC Board).

(B) *Eligibility and qualifications of holder and grandfather clause.*

(1) All applications shall be in writing and made directly to the city Alcoholic Beverage Control (ABC) Administrator or his or her designee. The ABC Administrator shall request a background check and criminal history from the Chief of Police or his or her police department designee with respect to the considered applicant's eligibility and the written certification of approval from the Zoning Administrator.

(2) To be eligible for a 2:30 a.m. permit, the applicant must have a current and valid city and state alcoholic beverage license for the sale of liquor by the drink.

(3) Package or malt beverage retail sales licensees, unless the licensee also has a valid city and state liquor by the drink license, shall not be eligible for a 2:30 a.m. permit.

(4) All taxes, fines, outstanding liens, fees and license charges in connection with the applicant's business enterprise due the city, including annual minimum occupational license, must be paid before an applicant shall be considered. Additionally, if the applicant is the recipient of any loan granted or administered by the city, all payments or obligations concerning the loan(s) must be current at the time the application is submitted. However, if there is a member, officer, shareholder or partner of an entity that is an applicant who is in default of an obligation as indicated above, the entity not in default shall not be denied the right to submit an application.

(5) Effective on the passage of this section, no new permit shall be issued without the written certification of the Zoning Administrator on the application that the proposed site requesting issuance of the permit is located within one of the following zones:

(a) Central Business District (CBD)

(b) Commercial-General (CG)

(c) Commercial-Tourist (CT)

(d) Commercial-Community (CC)

(e) Resource Protection (RP), but only when adjacent to a commercial, office, or industrial zone.

(f) Commercial-Neighborhood (CN)

(g) Commercial-office (CO)

(6) No applicant shall be granted a 2:30 a.m. permit who has been convicted of any felony within the last five years or misdemeanor relating to the use of alcoholic beverages within two years prior to submission of application or otherwise is in violation of the provisions of KRS 243.100 *et seq*.

(7) No applicant shall be granted a 2:30 a.m. permit unless the person is an actual resident of the state or a corporation licensed to do business within the Commonwealth of Kentucky.

(8) Persons holding permits prior to the enactment of this section and also those businesses holding a liquor by the drink license and located in the area annexed to the city by ordinance O-47-76, adopted June 10, 1976, shall be granted the privilege of continued operation without regard to the zoning requirements of division (B)(5) above. All future transfers of existing nightclub permits at the same location will be honored if the transfers comply with the conditions and regulations listed in this section.

(C) *Permit fee.* The fee for a 2:30 a.m. permit shall be $5,000 per year, payable on or before February 1 of each year. If a permittee in good standing is approved by the ABC Board to transfer his or her permit to a new permittee at the same location during the license year, there shall be no additional fee assessed for that license year.

(D) *Proration of fees.* Fees collected for the purchase of 2:30 a.m. permits shall be due and prorated on a monthly basis if the application is received and awarded during the license year.

(E) *Disposition of revenue.* The proceeds of the permit fees collected under this section shall be deposited in the city's general fund account.

(F) *Information.* All applications and permits issued pursuant to the provisions of this section shall contain the following:

(1) Name, address, telephone number and e-mail address of applicant (including all officers, stockholders of small corporations (to or less stockholders), members of a limited liability company and/or partners);

(2) Number of the permit;

(3) Type of permit;

(4) Street address of the premises which holds the permit;

(5) The name and address of the owner of the building in which the permit is located;

(6) The expiration date of the permit; and

(7) A statement that the permit shall not be a property right, and that it may be revoked or suspended at any time, pursuant to the law.

(G) *Conditions of permit.* All permits issued pursuant to this section shall be accepted by the applicant subject to the following:

(1) That the premises shall be subject to the entry of police, city ABC Administrator, law enforcement officers, or other duly authorized representatives of the city at all reasonable hours for the purposes of inspection and at all times during the operation of the premises.

(2) That the licensed premises shall, at all times, be conducted in an orderly manner and no indecent or criminal conduct shall be allowed at any time, nor shall violations of any law be permitted thereon.

(3) That no spirituous, vinous, or malt liquors shall be sold or dispensed to any minor. No licensee shall sell, give away, furnish, or permit to be consumed on the premises any spirituous, vinous, or malt liquors or any mixtures thereof between the hours of 2:30 a.m. and 6:00 a.m., or at any time during the hours of a Sunday after 2:30 a.m. (unless the applicant has obtained a Special Sunday Retail Drink License that allows for sale to begin at 11 a.m. on Sunday), or on any regular or primary election day while the election polling places are open. During the time periods referred to herein, no person shall be present on the premises of the establishment licensed for the sale of alcoholic beverages except the owner or his or her authorized employees, contractors and agents.

(H) *Specific regulations for 2:30 a.m. permit holders.*

(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone.

(2) All 2:30 a.m. permit holders shall make every reasonable effort to arrange for orderly closing of the establishment, including, but not limited to, instructions to customers that they should depart the premises in a quiet and orderly fashion.

(3) All 2:30 a.m. permit holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

(4) All 2:30 a.m. permit holders shall comply with all city Building and Zoning Codes, including the statewide Building Code, the city's sign regulations, and city nuisance and property maintenance codes, and all alcoholic beverage control ordinances, statutes, and regulations.

(5) Compliance with any additional reasonable requirements set by the ABC Board as a condition of the applicant receiving a 2:30 a.m. permit. The ABC Board may impose reasonable conditions and/or restrictions related to the use and operation the premises after 1:00 a.m. based on the circumstances and operations of the premises such as the volume of traffic, the nature of

the neighborhood where the premises are located, the number of patrons, whether live or recorded music is played, and so forth. These conditions and/or restrictions may be in addition to any conditions imposed by the Board of Adjustment if a conditional use requirement is required for the use of the premises. The ABC Board's conditions and/or restrictions will be limited to the hours between 1:00 a.m. and 2:30 a.m. They include, but are not limited to: requiring seating in the rear of the premises or in a restricted area or in an enclosed area installation of fencing or landscaping to act as a barrier; requiring the closure of windows; requiring security measures to be provided by the establishment; requiring the business to restrict outdoor seating after 1:00 a.m.; and/or that no amplified music be allowed outside after 1:00 a.m.

(6) Any suspension or revocation of the 2:30 a.m. permit holder's regular city or state liquor by the drink license shall result in a suspension or revocation of the holder's 2:30 a.m. permit for the same time period.

(I) *Hearing provision.*

(1) There is hereby established a city Alcoholic Beverage Control Board (ABC Board) consisting of the Police Chief, the City Manager or his or her designee, and a citizen of the city.

(2) The ABC Board shall conduct a public hearing regarding all new and transferred 2:30 a.m. permit applications and certain renewal applications as specified in division (7). The City Clerk shall post notice of any meeting of the city ABC Board at least 24 hours before the meeting takes place.

(3) The local ABC Administrator shall represent the City at any and all hearings before the ABC Board. The ABC Administrator shall present evidence gathered in support or disapproval of the 2:30 a.m. permit application or renewal and make his or her recommendation to the ABC Board. It will also be the responsibility the ABC Administrator to investigate complaints and/or allegations of violations of this or other city, state or federal alcoholic beverage control laws by a 2:30 a.m. permit holder and to present his or her findings to the ABC Board.

(4) The ABC Board shall consider the recommendation of the local ABC administrator and all evidence presented. The Board shall render a decision either approving, approving with conditions, or disapproving the application or renewal of a 2:30 a.m. permit. If the application or renewal is disapproved, the ABC Board shall list the reason(s) for such a denial. In addition to the conditions and regulations previously listed, the Board may deny or suspend the 2:30 a.m. permit application or renewal for any of the follow reasons:

(a) The applicant is not in compliance with the terms and conditions of division (B) above.

(b) The establishment abuts a church, school or abuts an accessory use of the church or school, and the applicant has not gained the written consent of the church or school.

(c) The applicant is a sexually oriented business and has not obtained a sexually oriented business license.

(d) An excessive amount of police calls involving excessive noise, disruptive or illegal conduct at the applicant's establishment. Excessive means three or more calls concerning separate, unrelated incidents that are documented by a law enforcement agency.

(e) Any arrest and conviction for prostitution or drug activity occurring on the applicant's premises within the last three years.

(5) If the city ABC Board approves a 2:30 a.m. permit with conditions, the city ABC Administrator and the city police department shall have the power to conduct periodic checks to ensure that the applicant is in compliance.

(6) The ABC Board shall have the responsibility for investigating and hearing complaints regarding 2:30 a.m. permit holders and it shall have the authority to levy fines up to $500 per violation or suspend or revoke a 2:30 a.m. permit where it finds violations of this section or other applicable beverage control laws. The ABC Board may allow a 2:30 a.m. permittee to continue to operate subject to conditions. The ABC Board may conduct hearings upon verified complaints from citizens or upon its own motion, or on complaints received by the ABC Administrator, police officers or other enforcement personnel regarding the violation of law by a 2:30 a.m. permit holder.

(7) The city ABC Administrator shall conduct an annual review before the renewal of any 2:30 a.m. permit and if it is determined that probable cause exists that the 2:30 a.m. permit holder is in violation of regulations established by this section or other city, state or federal law, then the ABC Administrator shall present a recommendation to the ABC Board to deny or suspend the 2:30 a.m. permit that is up for renewal. The ABC Board shall hold a hearing and render a decision on whether the 2:30 a.m. permit renewal application should be denied, suspended, renewed or renewed with conditions .

(8) The 2:30 a.m. permit holder will have the opportunity to present evidence in his or her own defense at any hearings conducted by the ABC Board and shall have the right to be represented by an attorney at law, and the proceeding shall be mechanically or stenographically recorded. Any party desiring to have a court reporter shall be responsible for the cost of the court reporter.

(9) Appeals. The 2:30 a.m. permit holder or the complainant may appeal the decision of the ABC Board to the Board of Commissioners by filing a notice of appeal with the City Clerk within ten days of the date of the written decision of the ABC Board.

(a) The appellant shall be responsible for having the mechanically recorded transcript typed and submitted to the City Clerk within 30 days of the date of the notice of appeal. Five copies of the typed transcript as well as any other written memoranda shall be submitted by the appellant to the City Clerk for forwarding to the Mayor and Board of Commissioners no later than 45 days from the date of the notice of appeal.

(b) The appellee shall have 15 days from the date of the filing of the appellant's transcript and memoranda to file a reply brief or any other argument in response to appellant's brief.

(c) The Mayor and Board of Commissioners may affirm, deny, amend, or remand the findings of the ABC Board based upon the transcript and the written memoranda of appellant and appellee. In addition, it shall be discretionary with the Mayor and Board of Commissioners as to whether oral arguments will be permitted to aid the Mayor and Board of Commissioners in reaching their decision.

(d) The findings of the Mayor and Board of Commissioners shall be reduced to writing and their decision shall be appealable to the Kenton County Circuit Court.

(J) *Transferability.*

(1) An individual holding a 2:30 a.m. permit may transfer that permit to a new location which he or she will own and operate, if it falls within the acceptable zones previously listed in division (B)(5).

(Ord. O-34-92, passed 8-29-92)

(2) Whenever transfer to a different transferee is proposed at the same location, the 2:30 a.m. nightclub permit may be transferred if the location is in a zone listed in division (B)(5), and if the transferee is granted approval by the ABC Board after following the application steps listed in this section.

(Ord. O-34-92, passed 8-29-92)

(3) When a 2:30 a.m. permit holder in any zone except those listed in division (B)(5), transfers the business to a new owner, the 2:30 a.m. permit may be transferred subject to the approval of the ABC Board after following the application steps listed in this section.

(Ord. O-34-92, passed 8-29-92)

(K) Whenever an applicant to obtain or transfer a 2:30 a.m. permit has obtained city approval for a city alcoholic beverage license and is awaiting approval of a state alcoholic beverage license, and is operating validly under another state alcoholic beverage license, the applicant may operate under the newly obtained or transferred 2:30 a.m. permit while awaiting state approval.

(`77 Code, § 410.13) (Ord. O-6-82, passed 2-2-82; Am. Ord. O-18-84, passed 3-13-84; Am. Ord. O-28-84, passed 5-8-84; Am. Ord. O-32-85, passed 6-11-85; Am. Ord. O-85-85, passed 12-3-85; Am. Ord. O-71-88; passed 8-24-88; Am. Ord. O-7-89, passed 1-31-89; Am. Ord. O-37-91, passed 7-23-91; Am. Ord. O-30-98, passed 6-25-98; Am. Ord. O-4-08, passed 1-29-08) Penalty, see § 111.999

§ 111.033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ESTABLISHMENTS. A business within the city, where liquor, beer or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail malt beverage liquor license that has been issued by the city.

LICENSE. A retail drink liquor license or a retail malt beverage liquor license issued by the city.

LICENSEE. Any person to whom a retail drink liquor license or a retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.

LIQUOR ADMINISTRATOR. The duly appointed Alcoholic Beverage Control Administrator of the city.

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PREMISES. The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

(B) It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view portion of the breast referred to as the areola, nipple, or simulation thereof.

(C) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) In the event a violation of this section occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.

(Ord. O-9-83, passed 3-8-83) Penalty, see § 111.999

§ 111.034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED

(A) No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed liquor establishment.

(B) No employee or independent contractor of a licensed liquor establishment shall be compensated in any manner that is measured by a percentage or fraction of beer or liquor retail sales.

(Ord. O-15-86, passed 3-18-86; Am. Ord. O-32-91, passed 7-2-91) Penalty, see § 111.999

§ 111.035 CLOSE DOORS DURING HOURS OF OPERATION.

Establishments in the city licensed to sell or dispense alcoholic beverages by the drink shall be prohibited from allowing doors leading from the licensed premises to the public street to remain in the open position for any time period longer than is reasonably necessary to allow persons to enter or leave said establishment at all times during normal hours of operation, except between the hours of 9:00 a.m. and 9:00 p.m. However, the 9:00 a.m. to 9:00 p.m. exception shall not apply to places of entertainment where alcoholic beverages are sold including nightclubs, theaters, pool halls, billiard parlors and similar enterprises. The doors of these places of entertainment shall not remain in the open position throughout their hours of operation.

(Ord. O-55-86, passed 9-2-86; Am. Ord. O-60-86, passed 9-16-86; Am. Ord. O-84-86, passed 1-13-87; Am. Ord. O-41-87, passed 7-7-87; Am. Ord. O-36-91, passed 7-23-91) Penalty, see § 111.999

§ 111.036 ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

(Ord. O-18-90, passed 5-15-90) Penalty, see § 111.999

§ 111.999 PENALTY.

(A) *Advertising.* Any person found guilty of violating any provision of §§ 111.003 through 111.005 shall be deemed guilty of a violation and shall be fined not less than $10 nor more than $100.

(B) *Alcoholic beverages.*

(1) Any person found guilty of violating any provision of §§ 111.021, 111.024 through 111.028, 111.030, or 111.031, except § 111.025(R), shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Control Board.

(2) Any person, firm, or corporation convicted of violating § 111.025(R) shall be deemed guilty of a misdemeanor and shall be fined not less than $25 nor more than $500 in the discretion of the District Court.

(3) Any person, firm, corporation, whether for profit or not for profit, or any officer or individual or agent or employee of the corporation who violates any of the provisions of § 111.029 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 in the District Court or any other court of appropriate jurisdiction, in the discretion of the court.

(4) Any person who violates any provision of § 111.032 shall be deemed guilty of a misdemeanor and shall be fined in an amount of not less than $50, nor more than $500, or imprisoned for not more than 90 days, or both fine and imprisonment for each violation, in the

discretion of the court. The criminal penalty shall be in addition to any penalty imposed by revocation or suspension of the 2:30 a.m. Permit by the City of Covington Alcoholic Beverage Control Board.

(5) Any person found to be in violation of the provisions of § 111.033 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(6) Any person found to be in violation of § 111.034 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or imprisoned for not more than six months in jail, or both so fined and imprisoned at the discretion of the court of appropriate jurisdiction.

(7) Any person found to be in violation of the provisions of § 111.035 shall be deemed guilty of a violation and shall be subject to a fine of $25 for each violation.

(8) Any person found to be in violation of the provisions of § 111.036 shall be deemed guilty of a violation and shall, upon conviction thereof, be fined not less than $10 nor more than $100 for each offense.

(C) *Auctions.* Any person who violates any provision of §§ 111.050 or 111.051 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(D) *Charitable solicitations.* Any person who violates any provisions of §§ 111.060 through 111.076 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(E) *Detective and guard agencies.* Any person who violates any provision of §§ 111.090 through 111.102 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(F) *Festival vendor license.* Any person who violates any provision of § 111.260 shall be deemed guilty of a misdemeanor and shall be fined not more than $500. Each day of continued violation shall be deemed a separate offense.

(G) *Horse-drawn vehicle/carriage businesses.* In addition to any other remedy, any person, firm, or corporation found guilty of violating the provisions of §§ 111.400 through 111.404 shall be deemed guilty of a misdemeanor and shall be fined not less than $50 nor more than $200 for each offense (a separate offense shall be deemed committed on each day during or on which a violation occurs or continues), or may be imprisoned for not less than 60 days, or both.

(H) *Itinerant vendors.* Any person, firm, or corporation found to be in violation of the provisions of § 111.141 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than $500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.

(I) *Junk, scrap metal, precious metal and secondhand dealers, secondhand stores and pawn shops.* Any violation of any provision in §§ 111.50 to 111.162 is classified as a civil offense, pursuant to the authority of KRS 65.8808. The City Code Enforcement Board shall have

power to issue remedial orders and impose civil fines to enforce this section. Enforcement of this section shall be in accordance with the procedures outlined in the Code Enforcement Board guidelines located in §§ 92.16 through 92.23. Civil fines for violations of this section shall be those set forth in § 92.99(A). The City shall possess a lien on property, real or personal, for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code, and the cost of placing of a lien on a personal or real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school district, and city taxes. In addition to the above civil penalties, a person who violates of any provision in §§ 111.150 to 111.162 may be charged with a Class A misdemeanor, and, upon conviction, shall be subject to a fine and/or jail time in accordance with the penalties for a Class A misdemeanor provided for in the Kentucky Revised Statutes.

(J) *Marriage brokers.* Any person convicted of violating the provisions of § 111.170 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than $250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

(K) *Massage therapists and persons providing massages in exchange for money.* Any person who violates any provision of §§ 111.180, 111.181 shall be guilty of a Class B misdemeanor and shall be subject to a fine and/or jail time in accordance with the penalties for a Class B misdemeanor provided for in the Kentucky Revised Statutes.

(L) *Pool and billiard halls.* Any person who violates any provision of §§ 111.200 through 111.212 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(M) *Public markets.* Any person who violates any provision of §§ 111.250 through 111.256 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(N) *Rental agencies.* No rental agency, agent, or employee shall violate nor participate in the violation of any of the provisions of §§ 111.330 et seq. governing rental agencies. Whoever violates the provisions thereof shall be deemed guilty of a misdemeanor and shall be fined not more than $250 and/or imprisoned for not more than 90 days. Each transaction that violates any provision of §§ 111.330 et seq. governing rental agencies shall constitute a separate violation.

(O) *Sexually oriented businesses.* Any person violating the provision of §§ 111.600 et seq. shall be guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment for a period not to exceed one year, or both.

(P) *Taxicabs.* Any person who violates any provisions of §§ 111.270 through 111.292 shall be deemed guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than six months, or both fined and imprisoned.

(P) *Vending cart sales.* Any person, firm, or corporation found guilty of violating the provisions of §§ 111.500 through 111.508 shall be deemed guilty of a misdemeanor and shall be fined not less than $300 or imprisoned for not more than 60 days, or both, for the first offense, and fined not less than $500 or imprisoned for not more than 90 days, or both, for each offense after the first in the same calendar year, plus mandatory revocation of license with the second offense.

(R) *Temporary sale or display of motor vehicles.* Any person who violates any provision of §§ 111.700 through 111.705 shall be guilty of a violation and on conviction shall be punished by a fine of not less than $100 or more than $250 for each offense. Each day of such violation shall constitute a separate offense, and no additional notice other than notice of the original offense shall be required to convict a person for violations resulting from a continuation of such offense.

(S) *Garage and yard sales.*

(1) *Civil penalty.* Any violation of §§ 111.801 through 111.806 and § 111.808 is classified as a civil offense pursuant to the authority of KRS 65.8808. Any person who violates §§ 111.801 through 111.806 and § 111.808 shall be subject to a civil fine of not less than $100 per day per violation but not more than $500 per day per violation, or the cost to the city to abate the violation of §§ 111.801 through 111.806 and § 111.808, or both. Each day that a violation of §§ 111.801 through 111.806 and § 111.808 continues shall be deemed a separate offense to a maximum of $10,000 per citation.

(2) *Liens and costs.* The city shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

(3) *Code enforcement officers.* Code enforcement officers are hereby granted authority to issue citations for violations of this §§ 111.801 through 111.806 and § 111.808, but shall not have the powers of peace officers to make arrests or carry deadly weapons. The person receiving a notice of violation shall appear within a designated time pursuant to the citation.

(Ord. O-76-88, passed 9-13-88; Am. Ord. O-13-94, passed 4-12-94; Am. Ord. O-73-04, passed 12-13-04; Am. Ord. O-1-07, passed 1-23-07; Am. Ord. O-7-07, passed 3-27-07; Am. Ord. O-32-08, passed 9-9-08; Am. Ord. O-43-08, passed 10-14-08)

Chapter 3

ALCOHOLIC BEVERAGES*

Art. I. In General, §§ 3-1—3-20
Art. II. Licenses, §§ 3-21—3-27

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

(a) The words and phrases used in this chapter shall have the same meaning as defined in KRS Chapters 241, 243 and 244. As used herein the term "hotel" shall include motel.

(b) Unless the context otherwise requires, the following terms, as used in this chapter, shall be construed according to the definitions given below:

Hotel. Every building or other structure, kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which twenty-five (25) or more rooms are used for the sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

Private club. A corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale and consumption of alcoholic liquors which conforms to the definition of a club, as provided by state law.

Restaurant. Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

(Code 1976, § 3-15)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law reference—Business authorized by special private club license, KRS 243.270.

Sec. 3-2. Adoption of state alcoholic beverage laws.

The provisions of the Alcoholic Beverage Control Law of the state, including KRS Chapters 241, 243 and 244 and the regulations of the state alcoholic beverage control board, as the same may from time to time be amended, are hereby adopted as part of the alcoholic beverage control law of the city, except as otherwise lawfully provided in this chapter.

Sec. 3-3. City alcoholic beverage control administrator.

There is hereby created the office of city alcoholic beverage administrator (hereinafter in this chapter referred to as the administrator), who shall have the duties and functions prescribed by KRS Chapter 241. The administrator may or may not be an officer or employee of the city, and shall be appointed by the city manager. He shall also have such further duties and functions as are prescribed in this chapter.

Cross reference—Officers generally, § 2-41 et seq.

State law reference—City alcoholic beverage control administrator, KRS 241.160 et seq.

Sec. 3-4. Compliance with alcoholic beverage control laws mandatory.

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto.

Sec. 3-5. Books and records.

Every licensee under this chapter shall keep and maintain 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 state alcoholic beverage control board. Such books and records shall be available at all reasonable times for inspection by the administrator.

State law reference—Licensee to keep records, KRS 244.150.

Sec. 3-6. Closing on Christmas Day.

REPEALED 1-14-92 ORD# 92-1

All premises licensed to sell alcoholic beverages in the city shall remain closed all day each Christmas.

(Code 1976, § 3-1)

Cross reference—Stores may be open on Sundays, § 14-1.

Sec. 3-7. Business hours.

(a) No premises for which there has been granted a license for the sale of alcoholic beverages shall be permitted to remain open for any purpose between 1:00 a.m. and 8:00 a.m. on any day from Monday through Saturday; or at anytime after 1:00 a.m. on a Sunday; or on an election day while the polls are open; however, if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stock of distilled spirits, wine and malt beverages, and such department is kept locked during the time mentioned above, he shall be deemed to have complied with this section. On all other days alcoholic beverages may be sold from 8:00 a.m. until 1:00 a.m.

(b) The business hours established in this section shall be deemed to be conditions of the licenses granted by the city for the sale at retail of alcoholic beverages and any violation of

this section shall be grounds of revocation of the license held by the store or establishment guilty of such violation.
(Ord. No. 28-83, § 1, 12-20-83)

State law references—Time when retail premises selling distilled spirits and wine are to be closed, KRS 244.290; time when delivery and sale of malt beverages are prohibited, KRS 244.480.

Sec. 3-8. Location.

An establishment licensed to sell alcoholic beverages may be located within the city limits on any state or federally maintained highway as long as the location complies with the zoning laws of the city.
(Ord. No. 30-81, § 1, 11-24-81)

Sec. 3-9. Consumption of malt beverages on business premises prohibited.

No person shall consume any malt beverage on the premises of any place of business within the city, except businesses holding licenses and actually operating as restaurants or poolrooms, whether purchased there or elsewhere.
(Code 1976, § 3-3)

Secs. 3-10—3-20. Reserved.

ARTICLE II. LICENSES*

Sec. 3-21. Required.

It shall be unlawful to sell or offer for sale at retail in the city any alcoholic beverage without having procured a license, or in violation of the terms of such license.
(Ord. No. 22-83, § I(a), 10-4-83)

Sec. 3-22. Application.

Applications for licenses shall be made to the administrator, in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a club or corporation, verified by oath or affidavit, and shall contain the following statements and information:

(1) The name, age and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers

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***Cross references**—Occupational license fees, § 18-16; zoning, App. A.

State law references—Licenses to traffic in alcoholic beverages, KRS 243.020 et seq.; city licenses, KRS 243.070; issuance of city licenses, KRS 243.610.

and directors, and if a majority interest of the stock of such corporation is owned by one (1) person or his nominee, the name and address of such person;

(2) The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization;

(3) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed;

(4) The length of time the applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued;

(5) The amount of goods, wares and merchandise on hand at the time application is made;

(6) The location, description and diagram of the premises or place of business which is to be operated under the license, specifying the sections of the premises where alcoholic beverages are to be sold or consumed;

(7) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application;

(8) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article, laws of this state, or the code of ordinances of this city;

(9) Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefor;

(10) A statement that the applicant will not violate any of the laws of the state, or of the United States, or any code provision or ordinance of the city in the conduct of his place of business.

(Ord. No. 22-83, § I(b), 10-4-83)

Sec. 3-23. Termination.

Each license issued under this article shall terminate on the thirtieth day of June following the issuance thereof.

(Ord. No. 22-83, § I(d), 10-4-83)

Sec. 3-24. Examination of applicants.

The city alcoholic beverage control administrator shall have the right to examine, or cause, to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served as provided by statute, and to examine or cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof of his information in the performance of his

duties, and for such purpose to issue subpoenas which shall be effective in any part of this state. For the purpose of obtaining any of the information desired by the board of commissioners under this section, he may authorize his agent to act on his behalf, as provided by statute. (Code 1976, § 3-17(a))

Sec. 3-25. Fees.

(a) No license under the provisions of this article shall be issued until there has been paid to the city the license fee provided in this section.

(b) The following kinds of alcoholic beverage licenses and no others may be issued upon approval of the administrator, and the fees payable therefor to the city shall be as follows:

(1) Retail package license, per annum ..... $ 800.00
It shall be unlawful for any liquor store granted such a license to be located except in the following area: Main Street from the north end of the Independent Tobacco Warehouse property, extending North to the south end of the property of Brent and Co. in East Paris.)

(2) Retail drink license, per annum 800.00
(This license shall not apply to private clubs. Only restaurants may be issued such a license.)

(3) Retail malt beverage license, per annum 75.00

(4) Special private club license, per annum 300.00
(This permit shall allow the retail sale of alcoholic beverages for consumption only on the premises where sold, to be issued to a regularly organized private club, such sales to be made only to members of the club. Any private club making application for this license shall have been actually and in fact organized for a minimum of one (1) year before such license shall be granted.)

(5) Distributor's license 200.00
(Such license shall permit the wholesale sale of beer.)

(c) A license for the retail sale of beer for consumption on the premises shall not be issued to the holder of a retail package license.

(d) The number of all licenses of any class issued and in force at any one time in any year shall not exceed that permitted by the alcoholic beverage control board.
(Code 1976, § 3-17)

State law references—Persons who may not be licensed, KRS 243.100; causes for refusal of license, KRS 243.450; issuance of city licenses, KRS 243.610.

Sec. 3-26. Restrictions.

In no event shall a license be issued for any restaurant or any dining facility in a hotel, motel or inn, unless the applicant can demonstrate to the administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is

reasonably estimated to be not less than fifty (50) percent of the total gross receipts of such restaurant or dining facility for the license period.

Sec. 3-27. Procedures; applicability.

(a) *Insurance certificate.* No license shall be issued under this article unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the state, certifying that the applicant has, in force and effect, the insurance required by statute.

(b) *Payment of fees; refunds.* All such fees shall be paid to the city clerk, at the time application is made. In the event the license applied for is denied, the fee shall be refunded. The refunds shall be made whether the payments were voluntary or involuntary or were made under protest or not.

(c) *Record.* The city clerk shall keep a complete record of all such licenses issued and shall furnish the chief of police with a copy thereof; upon revocation or suspension of any license the city clerk shall immediately give written notice thereof to the chief of police.

(d) *Not subject to garnishment, etc., cessation upon death of licensee; bankruptcy.* A license shall be a purely personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked as in this article provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall cease upon the death of the licensee and shall not descend by the laws of estate or intestate devolution, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic beverages may continue the business of the sale or manufacture of alcoholic beverages under the order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee. A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under the license in accordance with the provisions of this section.

(e) *Change of location.* A license issued pursuant to this article shall permit the sale of alcoholic beverages only in the premises described in the application and license. Such location may be changed only when the written permit to make such change shall be issued by the administrator. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this chapter.

(f) *Applicant subject to other regulations.* Any applicant or any licensee pursuant to this article shall be subject to all code provisions and ordinances of the city, including, but not limited to, the applicable provisions of the building code, fire prevention code, health regulations, zoning ordinances, food handling ordinances and restaurant ordinances.

(g) *Investigations.* The administrator shall cause the chief of police, the building official and fire chief to make due investigation of the application and premises to be licensed and

upon being notified by them in writing that all of the applicable code provisions and ordinances of the city have been complied with, shall cause the license to be issued.

(h) *Renewal.* Any licensee may renew his license at the expiration thereof, provided that he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; provided further, that the renewal privilege herein provided for shall not be construed as a vested right.

(Code 1976, § 3-18)

State law references—Transfer of license, KRS 243.630 et seq.; continuation in business by representative of defunct licensee, KRS 243.640.

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CHAPTER 113: ALCOHOLIC BEVERAGES

Section

Licensing Provisions

113.01 License not to be issued for premises selling gasoline
113.02 License not to be granted to delinquent taxpayer
113.03 License fees

Operating Regulations

113.15 Regulation of minors
113.16 Hours and times of sales
113.17 Nude or nearly nude performances

113.99 Penalty

LICENSING PROVISIONS

§ 113.01 LICENSE NOT TO BE ISSUED FOR PREMISES SELLING GASOLINE.

(A) *Definitions.* For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LICENSE. Any license issued pursuant to KRS 243.020 through 243.670.

MALT BEVERAGE. Any fermented undistilled alcohol beverage of any name or description manufactured from malt wholly or in part or from any substitute for malt and having an alcoholic content greater than 3.2% of alcohol by weight.

SALE. Any transfer, exchange or barter for consideration and includes all sales made by any person whether principal, proprietor, agent, servant or employee of any malt beverage.

SUBSTANTIAL PART. An amount exceeding 50% of the annual gross receipts.

(B) No malt beverage license for the sale of malt beverage shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling gasoline and lubricating oil.

(Ord. 1-1973, adopted and effective 10-2-73)

§ 113.02 LICENSE NOT TO BE GRANTED TO DELINQUENT TAXPAYER.

(A) No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to Jefferson County or who is not in compliance with Jefferson County occupational license fee requirements at the time of issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes due to Jefferson County. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes of the county due on the property or premises on the first day of May last preceding the time of issuing the license have not been paid. In such cases, if taxes due to Jefferson County for any taxing period prior to that referred to in this division (A) are unpaid and delinquent on the property or premises on which a license to sell is sought, but if taxes for the period referred to in this division (A) of this ordinance are fully paid on the premises or property, the Jefferson County Alcoholic Beverage Control Board may, in its discretion, issue a license

to sell after receiving from the sheriff, the County Delinquent Tax Collector or other proper tax collection authority, a written statement to the effect that the applicant for the license and the owner of the property or premises on which the license is sought have made arrangements with the Sheriff, the County Delinquent Tax Collector or other proper tax collection authority, as applicable, satisfactory to him, for taking care of the indebtedness represented by the unpaid and delinquent taxes referred in this division (A).

(B) Any person who violates section (A) shall be fined not more than $100, or imprisoned not more than 50 days, or both.

(C) In addition to the penalty set out in subsection (B) above any person who does any act which requires a license with respect to the manufacture, storage, sale, purchase, transportation or other traffic or alcoholic beverages, who does not hold such license.
(Ord. 11-1985, adopted and effective 6-11-85)

§ 113.03 LICENSE FEES.

(A) As used in this ordinance, the business authorized by the various licenses shall be the same as defined in KRS Chapter 243.

(B) For the following kinds of distilled spirits and wine licenses, the fees shall be:

(1) Retail package license, per annum, according to the following schedule:

	Fee
If net purchases are between $0 - $30,000	$ 401
If net purchases are between $30,000 - $40,000	501
If net purchases are between $40,000 - $50,000	601
If net purchases are between $50,000 - $60,000	701
If net purchases are between $60,000 - $70,000	801
If net purchases are between $70,000 - $75,000	$ 901
If net purchases are over $75,000	1,001

(2) Retail drink license, per annum, according to following schedule:

If net purchases are between $0 - $10,000	$ 501
If net purchases are between $10,000 - $13,000	651
If net purchases are between $13,000 - $16,000	801
If net purchases are between $16,000 - $19,000	951
If net purchases are between $19,000 - $22,000	1,101
If net purchases are between $22,000 - $25,000	1,251
If net purchases are over $25,000	1,401

(3) Special temporary license, per month or part of month $133

(4) Special private club license, per annum $150

(5) Supplemental bar license, per annum, shall be the same amount as the fee which was paid for the retail drink license.

(6) Restaurant wine license, per annum $300

(C) For the following kinds of malt beverage licenses, the fees shall be:

	Fee
Retailer's license, per annum	$150
Special temporary license, per month or part of a month	$25.

(Ord. 9-1980, adopted and effective 4-22-80)

OPERATING REGULATIONS

§ 113.15 REGULATION OF MINORS.

(A) *Definitions.* For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LOITER.

(1) To be slow in moving; delay; linger; saunter; tarry; lag behind; or

(2) To wander as an idle vagrant.

MINOR. Any person under the age of 21 years.

RESTAURANT. An establishment the principal business of which is the furnishing of meals to the public and such establishment derives at least 35% or more of its gross annual income from the sale of food.

(B) *Prohibitions.*

(1) Minors shall not be permitted to loiter in or about the bar area or bar room of any licensed premises where alcoholic beverages are sold by the drink or in the distilled spirits and wine sales area of any retail package liquor premises.

(2) This ordinance shall not prevent minors from patronizing establishments such as restaurants, grocery stores, drug stores, hotels, private clubs, parks, fairs, or public exhibitions where sports, athletic events, theatrical plays or concerts are scheduled. For the purpose of this ordinance, bowling shall be considered an athletic event. The sale of alcoholic beverages shall be prohibited on the premises of bowling lanes during the hours of any junior league is bowling, unless the sale of alcoholic beverages is limited to a bar enclosed from the bowling area.

(3) In addition to the exemptions set forth in division (B)(2), this ordinance shall not prevent minors from patronizing premises for the purpose of playing billiards or pool; provided that:

(a) The premises has, in use for patrons, a minimum of four regulation sized pool tables;

(b) The bar area or bar room is enclosed and separated from the pool table area;

(c) The licensee complies with the provisions of KRS 436.320; and

(d) Alcoholic drinks and opened alcoholic beverage containers are prohibited in the area set aside for playing billiards or pool.
(Ord. 3-1991, adopted and effective 2-12-91)
Penalty, see § 113.99

(C) *Penalty.* Any person who violates any provision of this ordinance shall, upon conviction, be subject to the following penalties:

(1) For the first offense a fine of up to $100.

(2) For each subsequent offense a fine of up to $250 or confinement in jail for no more than 120 days, or both.
(Ord. 3-1991, adopted and effective 2-12-91)

§ 113.16 HOURS AND TIMES OF SALES.

(A) *Hours of sale, distilled spirits and wine.* It shall be unlawful for any person, firm or corporation licensed for the sale or distilled spirits or wine at retail, to sell, give away, permit to be sold or given away or permit on the licensed premises the consumption of such products between the hours of 2:00 a.m. and 6:00 a.m. on any week day and Saturday, or between the hours of 2:00 a.m. Sunday and 6:00 a.m. Monday, or on election day when polls are open in Jefferson County.

(B) *Hours of sale, malt beverages.* It shall be unlawful for any person, firm or corporation licensed for the sale of malt beverages at retail, to sell, give away, permit to be sold or given away or permit on the licensed premises the consumption of such products between the hours of 2:00 a.m. and 6:00

a.m. on any week day and Saturday or between the hours of 2:00 a.m. Sunday and 1:00 p.m. Sunday or on any election day when the polls are open in Jefferson County.

(C) The unlawful hours of sale of distilled spirits and wine and the unlawful hours of sale of beer indicted in divisions (A) and (B) of this ordinance, shall be the hours of 4:00 a.m. and 6:00 a.m. for the Monday before the first Saturday in May of each year, through 4:00 a.m. of the following Sunday.

(D) The unlawful hours of sale of distilled spirits and wine and the unlawful hours of sale and beer indicated in divisions (A) and (B) of this ordinance, shall be the hours of 4:00 a.m. and 6:00 a.m. for January 1 of each year; except when December 31 and January 1 fall on Sunday and Monday respectively, in which case the rules from divisions (A) and (B) of this ordinance apply.

(E) The sale of distilled spirits or wine at retail may be permitted, on premises licensed for such purposes, between the hours of 2:00 a.m. and 4:00 a.m. on each day of the week, except for the hours of 4:00 a.m. Sunday through 6:00 a.m. Monday, upon issuance of a special hours license as set forth in divisions (G) and (H).

(F) The sale of malt beverages at retail may be permitted on premises licensed for such purposes between the hours of 2:00 a.m. and 4:00 a.m. on each day of the week, except for the hours of 4:00 a.m. Sunday through 1:00 p.m. Sunday, upon issuance of a special hours license as set forth in divisions (G) and (H).

(G) The Jefferson County Alcoholic Beverage Control Board may issue a special hours license to any person, firm or corporation holding a license to sell distilled spirits and wine at retail upon payment in advance to the Jefferson County Alcoholic Beverage Control Board of an annual license fee of $250.

(H) The Jefferson County Alcoholic Beverage Control Board may issue a special hours license to any person, firm, or corporation holding a license to sell malt beverages at retail upon the payment in advance to the Jefferson County Alcoholic Beverage Control Board of the sum of $50.

(I) Pursuant to KRS Chapter 244, this ordinance shall apply only to those geographic areas of the county not within the corporate limits of a city of the first through fourth class. The foregoing provisions notwithstanding, this ordinance shall not reduce the privileges granted by divisions (K) through (N) of this ordinance to supplemental licenses thereunder for the purpose of assisting the convention and tourist industry in Jefferson County.

(J) Any person violating any provision in (A) through (I) of this ordinance shall, for the first offense, be fined not less than $100 nor more than $200, or be imprisoned not more than six months, or both; and for the second and each subsequent violation, shall be fined not less than $200 nor more than $500 or be imprisoned not more than six months or both.
(Ord. 1-1984, adopted and effective 1-24-84)

(K) The sale of distilled spirits and wine shall be permitted within the boundaries of Jefferson county, Kentucky with the exception of those areas excluded in divisions (L), (M) and (N) of this ordinance, on premises properly licensed for such purposes between the hours of 1:00 p.m. Sunday and 2:00 a.m. Monday.

(L) Sales of distilled spirits and wine shall be permitted pursuant to division (K) of this ordinance, only in areas of Jefferson County, Kentucky outside of the corporate limits of the City of Louisville and outside of any other areas where such sales are otherwise prohibited. This ordinance shall not be construed as prohibiting the City of Louisville from enacting similar legislation. Sales permitted by division (K) of this ordinance shall be made only on the premises of hotels, motels and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of 100 people at tables and which receive at least 50% or more of their gross annual income from their dining facilities by the sale of food.

(M) The retail sale of alcoholic beverages by the drink shall also be permitted within the geographic area defined in this ordinance and between the hours of 1:00 p.m. Sunday and 2:00 a.m. Monday, at those convention centers, horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than 500,000 passengers arrive or depart annually, which apply for and receive a supplemental license for the retail sale of alcoholic beverages by the drink and are determined by the Kentucky Department of Alcoholic Beverage Control to be locations beneficial for such sales in the interest of promoting tourism, conventions and the economic development of Kentucky or any part thereof.

(N) Divisions (K) through (N) of this ordinance notwithstanding, no person, partnership, proprietorship, corporation or other business entity, shall sell any distilled spirits, wine or other alcoholic beverages pursuant to this ordinance, unless they have first paid to the Jefferson County Alcoholic Beverage Control Board an application fee of $300. The application fee shall be valid for a period of one year from the date of acceptance of the application and may, in the reasonable discretion of the Jefferson County Alcoholic Beverage Control Board, be prorated for periods of less than one year. No sale of beverages permitted by this ordinance shall be allowed after the expiration of the initial application, until payment by the applicant of a one-year renewal fee for each succeeding year payable to the Jefferson County Alcoholic Beverage Control Board in the amount of $300.
(Ord. 30-1982, adopted and effective 7-8-82)

§ 113.17 NUDE OR NEARLY NUDE PERFORMANCES.

(A) No person shall perform or appear on the premises of any establishment licensed to sell wine, distilled spirits or malt beverages (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 discernibly 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 and no employee or agent of the licensee shall permit any person to perform or appear on its licensed premises in such manner or attire as to expose to public view of the patrons of the establishment at any time the bare female breasts below a point immediately above the top of the areola, human genitals, pubic region or buttocks or human or simulated male genitals in a discernibly 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, pubic region, buttocks or female breast below a point immediately above the top of the areola.
(Ord. 10-1987, adopted and effective 3-10-87)
Penalty, see § 113.99

§ 113.99 PENALTY.

Any person who violates the provisions of § 113.17 shall be fined not less than $250 nor more than $1,000, imprisoned not more than 50 days, or both. The fines and imprisonment which may be imposed under § 113.17 shall be in addition to and independent of any action which may be taken by the Jefferson County Alcoholic Beverage Control Administrator. (Ord. 10-1987, adopted and effective 3-10-87)