

CHAPTER 111: ALCOHOLIC BEVERAGES

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

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

(A) As used herein the words and phrases defined in KRS Chapters 241 to 244 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

(1) "ALCOHOL." Ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "ALCOHOLIC BEVERAGE." Every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than 1% of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions;

- (d) Flavoring extracts and syrups;
- (e) Denatured alcohol or denatured rum;
- (f) Vinegar and preserved sweet cider;
- (g) Wine for sacramental purposes; and
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use.

(3) "ALCOHOL VAPORIZING DEVICE" or "AWOL DEVICE." Any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption. "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage.

(4) "BED AND BREAKFAST." A one-family dwelling unit that:

- (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
- (b) Holds a permit under KRS Chapter 219; and
- (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy.

(5) "BOARD." The State Alcoholic Beverage Control Board created by KRS 241.030.

(6) "BREWER." Any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent.

(7) "BREWERY." Any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms 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 manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(8) "BUILDING CONTAINING LICENSED PREMISES." The licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(9) "CATERER." A person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person.

(10) "CATERER'S LICENSE."

(a) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.

(b) The caterer's license may be issued as a primary license to a caterer in any wet territory. No primary caterer's license shall authorize alcoholic beverage sales at premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(c) The caterer's license shall authorize the caterer to:

1. Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;
2. Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and the customer's guests, in:

a. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least 50% of the gross receipts from the catering of both food and alcoholic beverages; or

b. All other wet territory if the receipts from the catering of food at any catered event are at least 35% of the gross receipts from the catering of both food and alcoholic beverages;

3. Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and

4. Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(d) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.

(e) A caterer licensee shall not cater alcoholic beverages on Sunday except under the provisions of KRS 244.290 and 244.480.

(f) A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.

(g) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(h) The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.

(i) All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.

(j) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

(11) "CHARITABLE ORGANIZATION." A nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three years and which expends at least 60% of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(12) "CIDER." Any fermented fruit-based beverage containing 7% or more alcohol by volume and includes hard cider and perry cider.

(13) "CITY ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administration created and established by the city pursuant to § 111.60.

(14) "CITY LICENSE." A license established and authorized pursuant to the terms hereof.

(15) "CITY LICENSEE." A person who has been issued a city license pursuant to the terms hereof.

(16) "COMMISSIONER." The commissioner of the Department of Alcoholic Beverage Control.

(17) "CONVENTION CENTER." Any facility which, in its usual and customary business, provides seating for a minimum of 1,000 people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(18) "CONVICTED" and "CONVICTION." A finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(19) "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.

(20) "DISTILLER." Any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(21) "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. It includes any United States government bonded warehouse.

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

(23) "KRS." Kentucky Revised Statutes.

(24) "LICENSE." Any license issued pursuant to KRS Chapters 241 to 244.

(25) "LICENSEE." Any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244.

(26) "LIMITED RESTAURANT."

(a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of 50 persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; or

(b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of 100 persons for dining, and which is located in a wet or moist territory under KRS 242.1244.

(27) "LOCAL ADMINISTRATOR." A city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator.

- (28) "MALT BEVERAGE." Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider.
- (29) "MANUFACTURE." Distill, rectify, brew, bottle, and operate a winery.
- (30) "MANUFACTURER." A winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- (31) "MINOR." Any person who is not 21 years of age or older.
- (32) "PERSON." Any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.
- (33) "PREMISES." The land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "PREMISES" shall not include as a single unit two or more separate businesses of one owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.
- (34) "PRIVATE CLUB." A nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded.
- (35) "PUBLIC NUISANCE." A condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons.
- (36) "QUALIFIED HISTORIC SITE."
- (a) A contributing property with dining facilities for at least 50 persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;
 - (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least 50 persons at tables, booths, or bars where food may be served;
 - (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or
 - (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places.
- (37) "QUALIFIED HISTORIC SITE LICENSE." Shall authorize the licensee to:
- (a) Sell alcoholic beverages by the drink at one or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037;
 - (b) Sell alcoholic beverages by the drink to patrons at public or private functions held on the premises; and
 - (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260.
- (38) "REPACKAGING." The placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- (39) "RESTAURANT." A facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least 50% of its food and alcoholic beverage receipts from the sale of food at the premises.
- (40) "RETAILER." Any licensee who sells and delivers any alcoholic beverage to consumers, except for producers with limited retail sale privileges.
- (41) "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 alcoholic beverage.
- (42) "SELL." Solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.
- (43) "SERVICE BAR." A bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.
- (44) "SMALL FARM WINERY." A winery whose wine production is not less than 250 gallons and not greater than 100,000 gallons in a calendar year.
- (45) "SOUVENIR PACKAGE." A special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or

(b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky.

(46) "SPECIAL TEMPORARY ALCOHOLIC BEVERAGE AUCTION LICENSE."

(a) A special temporary alcoholic beverage auction license may be issued to a charitable or nonprofit organization.

(b) A special temporary alcoholic beverage auction license shall authorize the holder to:

1. Purchase, transport, receive, possess, store, sell, and deliver alcoholic beverages to be sold by auction or raffle or consumed at charity or nonprofit events;

2. Purchase, transport, receive, possess, store, sell, and deliver limited specially labeled bottles of alcoholic beverages to be sold at charity or nonprofit events;

3. Obtain alcoholic beverages from distillers, rectifiers, wineries, small farm wineries, brewers, microbreweries, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity or nonprofit events; and

4. Receive payment for alcoholic beverages sold at events.

(c) Each alcoholic beverage auction or raffle conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244 and the administrative regulations issued under those chapters and shall be authorized only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the county or municipality.

(d) The location at which the alcoholic beverages are auctioned, raffled, or consumed under this section shall not constitute a public place for the purpose of KRS Chapter 222. Charitable or nonprofit events may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary alcoholic beverage auction license shall post a copy of the license at the location of the event.

(e) A special temporary alcoholic beverage auction license shall not be issued for any period longer than 30 days.

(f) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a charitable or nonprofit organization possessing a special temporary alcoholic beverage auction license under this section.

(g) All restrictions and prohibitions applying to an alcoholic beverage retail package and alcoholic beverage by the drink license, not inconsistent with this section, shall apply to a special temporary alcoholic beverage auction license.

(47) "SPECIAL TEMPORARY LICENSE FOR QUALIFYING EVENT -- ACTIVITIES PERMITTED AND PROHIBITED."

(a) A special temporary license may be issued in wet territory to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the Board a necessity for the license exists. Unless inconsistent with this section, a special temporary licensee shall have the same privileges and restrictions of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee at the designated premises, not to exceed 30 days.

(b) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.

(c) The holder of a special temporary license may sell, serve, and deliver alcoholic beverages by the drink, for consumption only at the designated premises and the date and times for the qualifying event.

(48) "STATE." The Commonwealth of Kentucky.

(49) "STATE ADMINISTRATOR" or "ADMINISTRATOR." The distilled spirits administrator or the malt beverages administrator, or both, as the context requires.

(50) "STATE LICENSE." A license authorized by KRS Chapters 241 to 244.

(51) "SUPPLEMENTAL BAR." A bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar license is a nonquota license and shall not be transferable to other premises. A license authorizing retail malt beverage sales, by the drink or by the package, authorizes the licensee to sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

(52) "TRAFFIC IN ALCOHOLIC BEVERAGES." Any action, business, or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

(53) "VINTAGE DISTILLED SPIRIT." A package or packages of distilled spirits that:

(a) Are in their original manufacturer's unopened container;

(b) Are not owned by a distillery; and

(c) Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth.

(54) "WAREHOUSE." Any place in which alcoholic beverages are housed or stored.

(55) "WEAK CIDER." Any fermented fruit-based beverage containing more than 1% but less than 7% alcohol by volume.

(56) "WHOLESALE SALE." A sale to any person for the purpose of resale.

(57) "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 24% by volume. It includes sake, 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 15% of alcohol by volume. It does not include weak cider.

(58) "WINERY." Any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17; Am. Ord. passed 2-18-19)

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

(A) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city license and a valid state license therefor.

(1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an agent, servant, or employee of a person who holds the kind of license that authorizes the act.

(2) For the privilege of causing, permitting, and engaging in the actions, business, and transactions authorized thereby in regard to manufacture, storage, sale, purchase, transporting or other traffic in alcoholic beverages in the city and pursuant to the authority of KRS Chapters 241 to 244, there is hereby established a corresponding city license for each of the state licenses described herein. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are 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 herein. The fees for such city licenses shall be the maximum allowed by law as indicated herein.

(B) KRS 243.070 establishes the licenses and fees that may be imposed by the legislative body of a city or consolidated local government in which alcohol sales are permitted pursuant to KRS Chapter 242. Cities can only issue licenses set out in the statute, and the license fees must not exceed the amounts specified.

Distiller's license, per annum	\$ 500.00
Rectifier's license, per annum	\$ 2,756.25
Class A	\$ 960.00
Class B	
Wholesaler's distilled spirit and wine license, per annum	\$ 2,205.00
Quota retail package license, per annum	\$ 661.50
Quota retail drink license, per annum	\$ 661.50
Special temporary license, per event	\$ 110.25
Nonquota type 1 retail drink license, per annum	\$ 1,102.50
Nonquota type 2 retail drink license, per annum	\$ 1,000.00
Nonquota type 3 retail drink license, per annum	\$ 300.00
Special temporary alcoholic beverage auction license, per event	\$ 100.00
Special Sunday retail drink license, per annum	\$ 300.00
Caterer's license, per annum	\$ 800.00
Bottling house or bottling house storage license, per annum	\$ 1,000.00
Malt beverage licenses as follows:	
Brewer's license, per annum	\$ 500.00
Microbrewery license, per annum	\$ 500.00
Malt beverage distributor's license, per annum	\$ 400.00
Nonquota retail malt beverage package license, per annum	\$ 200.00
Nonquota type 4 retail malt beverage drink license, per annum	\$ 200.00
Limited golf course license, per annum	\$ 1,200.00
Limited restaurant license, per annum	\$ 1,200.00

Extended hours supplemental license per annum	\$ 2,000.00
Authorized public consumption license, per annum	\$ 250.00
Qualified historic site license, per annum	\$ 1,030.00

(C) The fee for the following license types may not be increased by more than 5% above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five-year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses as stated above in subsection (B) of this section:

- (1) Quota retail package license: retail package liquor license;
- (2) Quota retail drink license: retail drink license;
- (3) Nonquota type 1 retail drink license: convention center or convention hotel complex license;
- (4) Nonquota type 2 retail drink license: restaurant drink license;
- (5) Nonquota retail malt beverage package license: retail malt beverage license;
- (6) Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
- (7) Limited restaurant license; and
- (8) Limited golf course license.

(D) The fee for each of the first five supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five to the same licensee at the same premises.

(E) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of \$50. The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of \$50.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.21 FORM, CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established hereby shall each be evidenced by a document, the form and content of which shall be prescribed by state law.

(B) All licenses shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of the license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The expiration date of the license; and

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

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.22 APPLICATION; ISSUANCE.

(A) Notice of intention to apply for license.

(1) All persons, except an applicant for the same license for the same premises, or an applicant for supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special non-beverage alcohol license, a transporter's license, a special Sunday drink license, a hotel in-room license, a sampling license, or a special temporary drink license shall, before applying for a license, advertise by publication their intention to apply for a license in the City of Hazard local newspaper for legal notices under KRS 424.120.

(2) The notice shall contain the following information:

(a) The notice shall state: the name and address of the applicant and the name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law;

(b) The notice shall specifically state the location of the premises for which the license is sought, the type of business, and the type of license being requested; and

(c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the approval of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, within 30 days of the date of legal publication."

(3) Any license for which public notice under KRS 243.360 is required may conditionally be issued in less than 30 days from the date the application is received if the premises has previously operated under the same type of license within the last 12 months.

(B) Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City ABC Administrator or other authorized city official and renewed by City ABC Administrator or other authorized city official upon the expiration thereof, upon receipt of the following documents and fees, as authorized in this chapter applicable to the specific license the applicant is seeking, by the City ABC Administrator or other authorized city official, more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(1) A written application therefor with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of the application shall be prescribed by the City Administrator; however, provision for the following information, statements, and representations shall and must be included therein:

(a) The name, age, Social Security number, address, residence, and citizenship of each applicant;

(b) If the applicant is a partner, the name, age, Social Security number, address, residence, and citizenship of each partner and the name and address of the partnership;

(c) The name, age, Social Security number, address, residence, and citizenship of each individual or partner interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, limited liability company, or other business entity recognized by law, the name, age, Social Security number, and address of each principal owner, member, officer, and director of the applicant. The department may require the names of all owners and the ownership percentage held by each;

(d) The premises to be licensed, stating the street and number, if the premises has a street number, and a description that will reasonably indicate the location of the premises. If the applicant is not the owner of the premises, a copy of the written agreement allowing the applicant to occupy the premises must be attached to the application. No license 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 agreement or a permit for a term of not less than the license period;

(e) 1. A statement that neither the applicant nor any other person referred to in this section has been convicted of:

a. Any misdemeanor directly or indirectly attributable to alcoholic beverages;

b. Any violation involving a controlled substance that is described in or classified pursuant to KRS Chapter 218A within the two years immediately preceding the application;

c. Any felony, within five years from the later of the date of parole or the date of conviction; or

d. Providing false information to the department preceding the application; and

2. A statement that the applicant or any other person referred to in this section has not had any license that has been issued under any alcoholic beverage statute revoked for cause within two years prior to the date of the application;

(f) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages; and

(g) Any other information necessary for the department and the City of Hazard to administer KRS Chapters 241 to 244 such as;

1. All information required to be contained in the application for state licenses.

2. An irrevocable consent by the applicant to the search of the licensed premises by any peace officer, including the City police, building inspector and fire inspector at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

3. Photographs, and fingerprints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

4. The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application. The fee must be paid by the applicant, the fee cannot be paid by a third party.

(C) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the department within ten days after the change.

(D) In giving any notice or taking any action in reference to a license, the department and city may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in

the application or supplemental statement shall be deemed material in any prosecution for perjury.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.23 APPROVAL OF APPLICATION.

(A) A license shall not be approved or issued until the 30-day period in which a protest is permissible has expired.

(B) The City Administrator shall deny, approve, or issue licenses when, in the sound discretion of the Administrator, all of the information necessary has been obtained or the applicant has refused to provide requested information.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.24 DENIAL OF APPLICATION.

Except as otherwise set forth in state law, the City Administrator shall not approve any application for a city license if:

(A) The City Administrator may deny any license application if the application is incomplete or the correct fee has not been remitted with the application.

(B) A license shall be denied:

(1) If the applicant or the premises for which the license is sought does not comply fully with all alcoholic beverage control statutes, the administrative regulations of the board and the city ordinances;

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

(3) If the applicant has made any false material statement in its application.

(C) A license may be denied by the City Administrator for any reason that the Administrator, in the exercise of the Administrator's sound discretion, deems sufficient. Among those factors that the Administrator shall consider in the exercise of this discretion are:

(1) Public sentiment in the area;

(2) Number of licensed outlets in the area;

(3) Potential for future growth;

(4) Type of area involved;

(5) Type of transportation available;

(6) Financial potential of the area; and

(7) Applicant's status as a delinquent taxpayer as defined in KRS 131.1815.

(D) An individual shall not become a licensee if the individual:

(1) (a) Has been convicted of any felony until five years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;

(b) Has been convicted of any misdemeanor involving a controlled substance that is described in or classified pursuant to KRS Chapter 218A in the two years immediately preceding the application;

(c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two years immediately preceding the application;

(d) Is under the age of 21 years;

(e) Has had any license relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of two years from the date of the revocation or conviction; or

(2) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one year before the date on which the application for a license is made. This division shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.

(E) A partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law shall not be licensed if:

(1) Each principal owner, partner, member, officer, and director does not qualify under divisions (D)(1)(a), (D)(1)(b), (D)(1)(c), (D)(1)(d), and (D)(1)(e) of this section;

(2) It has had any license relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of two years from the date of the revocation or conviction; or

(3) Any principal owner, partner, member, officer, or director, or any business entity in which they were directly or

indirectly interested, has had any license revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of the later of two years from the date of the revocation or two years from the date of conviction.

(F) The provisions of divisions (D)(1)(a) and (D)(1)(b) above shall apply to anyone applying for a new license under this chapter after July 15, 1998, but shall not apply to those who renew a license that was originally issued prior to July 15, 1998, or an application for a supplemental license where the original license was issued prior to July 15, 1998.

(G) A person shall not evade license disqualification by applying for a license through or under the name of a different person. The City Administrator shall examine the ownership, membership, and management of all license applicants, and shall deny the application if a disqualified person has a direct or indirect interest in the applicant's business. The city may issue administrative subpoenas and summonses to determine ownership of an applicant or to investigate alleged violations by a licensee.

(H) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official. No license shall be issued or renewed to any person or company which has outstanding taxes, utilities, interest or penalties to the city.

(I) If the City Administrator denies a license application, the Administrator shall notify the applicant in writing of the denial and reasons by registered or certified mail at the address given in the application or supplement.

(J) The applicant may, within 30 days after the date of the mailing of the notice from the City Administrator, file a request with the board for an administrative hearing on the application. The hearing shall be conducted by the board as a de novo review of the application in compliance with the requirements of KRS Chapter 13B.

(K) If the City Administrator denies an application and the applicant does not timely request a board hearing on its application under division (J) of this section, the city shall refund payment of the license fee to the applicant, if requested.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.25 TRANSFER OF LICENSE.

(A) Any license issued under this chapter to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless:

- (1) That person or premises complies with all of the provisions of this chapter;
- (2) The transfer of the license is approved by the City Administrator; and
- (3) The transfer of the state license to which the city license corresponds is approved by the state.

(B) Transfer of license or acquisition of interest without authorization is prohibited.

(1) For purpose of this section, "transfer" means:

- (a) The transfer to a new person or entity of 10% or more ownership interest in any licensed business or license;
- (b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business; or
- (c) The transfer of a business or license to a different premises.

(2) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the City Administrator in the exercise of sound discretion.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the city, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the City Administrator. The City Administrator shall treat a transfer applicant as a new applicant for qualification and discretion purposes.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the City Administrator.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain any other information prescribed by the city.

(7) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the City Administrator.

(8) A licensee shall not transfer its license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or administrative regulation which may result in the suspension or revocation of the license is pending.

(9) A licensee shall not transfer its license or any interest it has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(10) A licensee shall not transfer its license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(4) and the city for taxes, utilities or any other indebtedness. A transfer shall not take place until the indebtedness to the city is paid in full or otherwise released and the city is notified by the Kentucky Department of Revenue that the licensee's indebtedness has been paid or resolved to the satisfaction of the Department of Revenue. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

(C) In case of destruction by an act of God or casualty for which the licensee was not responsible, of premises for which a license has been issued, the City Administrator may, in the Administrator's discretion if the action is necessary to attain justice, change the license to authorize continuance of business at other premises. No transfer shall be made unless the licensee has filed a written verified statement of the reasons for the necessity of transfer. If the transfer is made the City Administrator shall endorse a description of the new premises upon the license and shall date and sign the endorsement.

(D) A transfer fee of \$25 shall be paid to the city for the transfer of the city license.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.26 PREMISES SELLING GROCERIES, GASOLINE, AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) Except as may be expressly permitted by state law, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from 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 at retail staple groceries, or gasoline or lubricating oil.

(Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.27 REGULATORY LICENSE FEE IMPOSED.

(A) Beginning January 1, 2018, there is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages, by package or by drink, in the sum of 3% of the gross receipts of such establishments. The regulatory license fee is assessed based upon the city's estimate and approved budget as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) A credit shall be allowed to each establishment against the regulatory license fee equal to the annual license fees imposed in § 111.20.

(C) The regulatory license fee described in division (A) of this section shall be collected by the ABC City Administrator or their designee according to the existing framework of the sales tax collection. Such regulatory license fee shall be payable and collectable monthly as calculated and remitted with the city regulatory license fee form.

(Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS.

(A) Except as otherwise mandated by state law, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the city are hereby established to be the hours after 8:00 a.m. and before 1:00 a.m. prevailing time on any day except Sunday, and on Sunday, distilled spirits, wine, and malt beverages may be sold at retail in the city between the hours after 1:00 p.m. and until 12:00 a.m., if the establishment has a Sunday sales license. However, no distilled spirits or wine or malt beverages shall be sold at retail in the city during the hours the polls are open in the city on any election day.

(B) The hours when any polls are open in the city on any election day, no person who has a valid city license for the sale of distilled spirits or wine or malt beverages at retail shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such city licenses shall cause the licensed premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such city licenses or any supplements thereto as officers, agents, or employees of the person to whom such city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the City Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine, and malt beverages from such premises are located within such approved department, and such approved department is continuously kept

locked, physically separated, and closed off from the remainder of the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

(Am. Ord. 90-8, passed 12-22-89; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17; Am. Ord. passed 2-18-19) Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements, and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed premises and the actions, business, and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation, or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business, and transactions conducted thereon; and the city licensee shall comply fully therewith.

(C) Pledging or granting of security interest in any licenses is prohibited. No person shall pledge or grant a security interest in any license. This type of pledge or security interest and any contract providing for the pledge or security interest shall be void.

(D) Persons whom licensees may not employ.

(1) A person holding any license shall not knowingly employ in connection with the licensed business any person who:

(a) Has been convicted of any felony within the last two years;

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages within the last two years;

(c) Is under the age of 20 years, unless the person is employed:

1. In a bottling house or room of a licensed distiller, winery, brewer, or rectifier;

2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory;

3. At premises licensed only with a nonquota retail malt beverage package license, and the person employed to sell malt beverages is at least 18 years of age and under the supervision of a person 20 years of age or older; or

4. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:

a. A restaurant that derives at least 50% of its food and alcoholic beverage sales from the sale of food for consumption on the licensed premises; or

b. Any other establishment with alcoholic beverage sales not exceeding 50% of its gross sales; or

c. Within two years prior to the date of the person's employment, has had any license issued under KRS Chapters 241 to 244 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

5. The provisions of this division (D)(1)(c) shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.

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

(E) The entrance of any premises for which a quota retail package license or a quota retail drink license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be erected and maintained to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than 48 inches from the floor shall not be construed as obstructing the view or the general observation of persons.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

(A) Posting of licenses.

(1) Before commencing or doing any business for the time for which a license has been issued, all licenses 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) No licensee shall post the license or permit it to be posted, upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy, or alter the license in any respect.

(B) Warning of dangers of drinking alcoholic beverages during pregnancy to be posted. All licensed retailers of alcoholic beverages, except holders of special temporary licenses, shall post in a prominent place easily seen by patrons a printed sign at least eight and one-half inches by 11 inches in size, with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(C) As required by KRS Chapters 241 to 244, a city licensee who has a valid city retail distilled spirits, wine, or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(1) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

"Persons under the age of 21 years are subject to a fine up to \$100 if they:

- a. Enter licensed premises to buy, or have served to them, any alcoholic beverages; or
- b. Possess, purchase or attempt to purchase, or get another to purchase, any alcoholic beverages; or
- c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(2) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

Statutory reference:

Display of state license required, see KRS 243.620 and 244.083

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule, or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

(A) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(B) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(C) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(D) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(E) Except as provided in KRS 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under 21 years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

(1) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery, distillery, brewery, winery, convenience store, grocery store, drug store, licensed APC premises, or any other business type, as determined by the board through the promulgation of administrative regulations, whose operations allow it to adequately monitor and prevent alcohol sales to minors;

(2) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises;

(3) Written approval has been granted by the department to allow minors on the premises until 10:00 p.m. where the sale of alcohol is incidental to a specific family or community event including but not limited to weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state director shall approve or deny the request in writing; or

(4) The usual and customary business of the establishment is an entertainment facility where pre-booked concerts are held. For the purpose of this division, house bands, disc jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this division, the licensee shall:

(a) Maintain the responsibility of all ticket sales;

(b) Sell the concert tickets directly to the patron or have a contractual agreement with a vendor or promoter to sell the concert tickets for the licensee;

(c) Maintain records of all gross concert ticket sales. The concert tickets shall have the name of a band or performer as well as the date of the concert;

(d) Permit minors to be in the area where the concert is taking place only during the time of the concert; and

(e) Prohibit minors on the premises until 30 minutes prior to the concert and prohibit minors from remaining on the premises more than 30 minutes after the concert performance has ended.

(F) Except as provided in division (E) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of 21 to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(G) Except as provided in division (E) of this section, a person under the age of 21 shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(H) A violation of division (A), (B), (C), (D), or (G) of this section shall be deemed a status offense if committed by a person under the age of 18 and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

(I) A retail licensee, or the licensee's agent, servant, or employee, shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, possessed by, or delivered to:

(1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that the purchaser's age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that the purchaser was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself; or

(2) A person who appears to a reasonable person to be actually or apparently under the influence of alcoholic beverages, controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.46 NUDE ACTIVITIES IN BUSINESS ESTABLISHMENTS.

(A) Definitions.

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

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

"LICENSEE." Any person to whom a retail drink liquor license or a retail cereal malt beverage liquor license has been issued by the city, including the officers, agents, and employees 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 regulated by alcoholic beverage statutes is carried on.

"RETAIL LICENSEE." Any licensee, including its officers, agents and employees, who sells at retail any alcoholic

beverage.

(B) Prohibited Acts.

(1) 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, buttocks, vulva or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in a manner or attire so as to expose to view any portion of the breast referred to as the areola, nipple, or simulation thereof.

(2) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when, having control of the business establishment's premises which it knows or has reasonable cause to know is being used by any person to appear on the premises in a manner or attire so as to expose to view portions of the pubic area, anus, buttocks, vulva or genitals, or any simulation thereof; or used by any female to appear on the premises in a manner or attire so as to expose to view any portion of the breast referred to as the areola, nipple or any simulation thereof, it permits that activity, or fails to make reasonable and timely effort to halt or abate the activity or use.

(Ord. 87-6, passed 12-14-87; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17) Penalty, see § 111.99

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine, or malt beverage license must conduct the actions, business, and transactions authorized thereby upon the licensed premises.

(B) When no such actions, business, or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether such acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) As required by KRS Chapters 241 to 244, the office of Alcoholic Beverage Control Administrator is hereby established. The duties of this office shall be assigned to the Chief of Police of the city Police Department. The administrative duties of this office shall be assigned to the City Tax Administrator.

(B) Each city administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each city administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.61 RIGHT OF ENTRY; SEARCH AND SEIZURE.

(A) Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the State Alcoholic Beverage Control Administrator and the City Administrator to inspect any licensed premise without first obtaining a search warrant. They may confiscate any contraband property.

(B) The following property is contraband:

(1) Any apparatus commonly used or intended to be used in the manufacture of alcoholic beverages and not registered in the office of a collector of internal revenue for the United States. The burden of proof that the apparatus is properly registered shall be on the defendant.

(2) Any material, equipment, implements, devices, firearms, and other property used or intended for use directly and immediately in connection with the unlawful traffic in alcoholic beverages.

(3) Any alcoholic beverages in the possession of anyone not entitled by law to possess them.

(4) Any alcoholic beverages in a container of a size prohibited by law or prohibited to the particular party in whose possession they are found.

(5) Any vehicle, watercraft, or aircraft in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic beverages unless lawfully acquired and intended for lawful uses.

(C) Seizure of contraband. Any peace officers, state administrators, and investigators of the department may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or one in possession of the contraband has been charged with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order for the destruction of all contraband property, except firearms or ammunition, included in KRS 244.180(1), (2), (3), and (4). Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

(1) Title to seized contraband included in KRS 244.180(1), (2), (3), and (4) shall be vested in the appropriate court within whose jurisdiction the seizure occurred, irrespective of whether the contraband was seized by peace officers of the city or county or state administrators or investigators of the department, notwithstanding the provisions of KRS 242.380.

(2) The court shall order the sheriff for the county in which the contraband included in division (C)(1) above of this section was seized to destroy the contraband, except firearms or ammunition, upon conviction of the defendant.

(3) Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

(Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19- 17)

§ 111.62 SUSPENSION, REVOCATION OF LICENSE.

(A) The renewal by the department of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

(B) The department may deny license renewal if the licensee is a delinquent taxpayer for taxes owed to the city and taxes owed to the state as defined in KRS 131.1815.

(C) Suspension of licenses;

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows:

(a) Except for violations arising from retail sales activities, including sales under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305:

1. Distillers, rectifiers, wineries, and brewers, \$1,000 per day;
2. Wholesale liquor licensees, \$400 per day; and
3. Wholesale beer licensees, \$400 per day;

(b) 1. Retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, \$50 per day;

2. Distillers, wineries, and brewers for violations arising from their retail sales activities, including sales by distillers under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305, \$50 per day; and

(c) All remaining licensees, \$50 per day.

(2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage Control Board shall be deposited in the state treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.

(4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

(D) Causes for which licenses may be revoked or suspended. A license may be revoked or suspended by the board for a violation of any of the following:

- (1) Any of the provisions of KRS Chapters 241 to 244;
- (2) Any administrative regulation of the board relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages;
- (3) Any rule or administrative regulation of the Department of Revenue relating to the taxation of alcoholic beverages;
- (4) Any Act of Congress or any rule or regulation of any federal board, agency, or commission;
- (5) Any local ordinance relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages;

(6) Any of the laws, regulations, or ordinances referred to in this section when an agent, servant, or employee of the licensee committed the violation, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of the licensee's instructions;

(7) Any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient; or

(8) Any of the reasons for which the state administrator would have been required to deny a license if existing material facts had been known.

(E) Causes for which licenses may be revoked or suspended. Any license may be revoked or suspended for the following causes:

(1) Conviction of the licensee or the licensee's agent, servant, or employee for selling any illegal alcoholic beverages on the licensed premises.

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

(3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:

(a) Two violations of the terms and provisions of KRS Chapters 241 to 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two consecutive years;

(b) Two misdemeanors directly or indirectly attributable to the use of alcoholic beverages within two consecutive years; or

(c) Any felony.

(4) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any related administrative regulations promulgated by the Department of Revenue.

(5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages.

(6) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This division shall not apply to:

(a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;

(b) The operation of a pari-mutuel system for betting, where authorized by law;

(c) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or

(d) Special temporary raffles of alcoholic beverages under KRS 243.036.

(7) Conviction of the licensee, the licensee's agents, servants, or employees for:

(a) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;

(b) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or

(c) Knowingly receiving stolen property upon the licensed premises.

(8) Failure to comply with the terms of a final order of the board.

(9) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.

(F) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City Administrator and mailed to the licensee at the address of the licensed premises by certified mail. The notice required by this section shall be in plain language and shall include:

(1) A statement of the date, time, place, and nature of the hearing;

(2) The name, official title, and mailing address of the City Administrator;

(3) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;

(4) A statement of the factual basis for the city action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(5) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;

(6) A statement advising the person of his right to legal counsel;

(7) A statement of the parties' right to examine, at least five days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the city's possession; and

(8) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter. The time and place of a hearing in regard thereto shall be at least 20 days thereafter notice at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City Administrator. The City Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

(G) License to be surrendered upon revocation. Within three days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender its license to the city police. If the revoked license is not surrendered at once by the licensee, the Chief of the Police Department or Sheriff shall, at the request of the city, immediately cause one of its officers to take physical possession of the license and return it to the city.

(H) Appeals from decisions or orders of City Administrator. Appeals from a decision or order of each City Administrator may be taken to the board by filing a notice of appeal with the board within thirty (30) days after the decision or order of the City Administrator is mailed or delivered by personal service. The notice of appeal shall specify the City Administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the City Administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the city administrator shall be governed by KRS Chapter 13B.

(Am. Ord. 2013-07, passed 6-20-13; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-02, passed 12-19-17)

§ 111.99 PENALTY.

The penalties provided for in this section shall be in addition to the revocation of the offender's license.

(A) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of Chapter 111, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor.

(B) Any person who, by himself or herself or through another, directly or indirectly, violates section 111.20(A) by engaging in any of the actions, business, or transactions authorized by such city and state alcohol beverage license within city limits, without both a valid city license and a valid state license, shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he or she shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he or she shall be guilty of a Class D felony.

(C) Any fee or cost imposed by Chapter 111 which is not paid on or before the due date shall bear interest at a rate of 8% per annum from the due date until the date of payment.

(D) Any person who violates any provision of § 111.43 shall be deemed to have committed a violation and shall, upon conviction, be fined not less than \$10 nor more than \$100.

(E) Any person who violates any provision of § 111.45(B) shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent, or altered identification card, paper, or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.

(F) Any person who violates § 111.46 shall be subject to the following:

(1) (a) Performing nude or nearly nude activities as set forth in § 111.46(B)(1), or permitting those activities as set forth in § 111.46(B)(2), is a violation of that section, and punishment shall be fixed as set forth in the Kentucky Revised Statutes.

(b) The second violation of § 111.46(B) within a 12-month period shall constitute a Class B Misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(c) Three or more violations of § 111.46(B) within a 12-month period shall constitute a Class A Misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(2) (a) In the event that a violation of § 111.46(B) occurs, the City ABC 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 liquor licensee at whose business establishment the activity prohibited by § 111.46(B) occurred shall have his/her or its license suspended or

revoked.

(b) In the event three or more violations of §111.46(B) occur at a business establishment within a 12-month period, the City ABC Administrator, after a hearing, shall revoke the retail drink license or retail malt beverage liquor license, or both.

(G) Any violation or offense of Chapter 111 that is not classified as a criminal offense pursuant to the Kentucky Penal Code or any other applicable state, federal or local criminal code or law, shall constitute a civil offense which shall be enforced according to the procedures set forth in the Hazard Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations. If a penalty is not stated herein for the violation, the penalty for violations of this chapter shall be as set forth in § 99.18 of the Hazard Code Enforcement Board Ordinance.

(Ord. 87-6, passed 12-14-87; Am. Ord. 2017-05, passed 12-19-16; Am. Ord. 2018-07, passed 12-4-17; Am. Ord. 2018-02, passed 12-19-17)