

CHAPTER 113: ALCOHOLIC BEVERAGE CONTROL

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§ 113.01 TITLE.

This chapter shall be known as and may be cited as the Alcoholic Beverage Control Chapter of the city. The provisions of the Alcohol Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto are adopted so far as applicable as a portion of this chapter, except as otherwise lawfully provided herein.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, 11-11-13)

§ 113.02 DEFINITIONS.

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

"ALCOHOL." Ethyl, hydrated oxide of ethyl or spirit of wine, from whatever sources or by whatever process it is produced.

"ALCOHOLIC BEVERAGE." Every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (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 if they are unfit for use for beverage purposes:

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

(2) Patented, patent, and proprietary medicines;

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

(4) Flavoring extracts and syrups;

- (5) Denatured alcohol or denatured rum;
- (6) Vinegar and preserved sweet cider;
- (7) Wine for sacramental purposes; and
- (8) Alcohol unfit for beverage purposes that is to be sold for legitimate external use.

"ALCOHOL VAPORIZING DEVICE OR AWOL DEVICE." Any device, machine, or process that mixes liquor, spirits, or any alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption. It 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.

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

"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.

"CATERER." A corporation, partnership, or individual that or who operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

"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 with the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

"CITY ADMINISTRATOR." City Alcoholic Beverage Control Administrator(s).

"COMMISSIONER." The Commissioner of the Department of Alcoholic Beverage Control.

"CONVENTION CENTER." Any facility which, in its usual and customary business, provides seating for a minimum of one thousand (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.

"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.

"DEPARTMENT." The Department of Alcoholic Beverage Control.

"DISTILLED 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 solutions, except wine, hard cider, and malt beverages.

"DISTRIBUTOR." Any person, who distributes malt beverages, or distilled spirits, for the purpose of being sold at retail.

"HOTEL." A hotel, motel or inn for accommodation of the traveling public, designed primarily to serve transient patrons.

"LICENSE." Any license issued pursuant to KRS Chapters 241 to 244 and Chapter 113 of the City of Morehead Code of Ordinances.

"LICENSEE." Any person to whom a license has been issued.

"MALT BEVERAGE." Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute from malt.

"MINOR." Any person who is not twenty-one (21) years of age or older.

"PERSON." Means person, firm, partnership, association, company, corporation, or fraternal order.

"PREMISES." Means 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 (2) or more separate businesses of one (1) 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 the license.

"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.

"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 an considerable number of persons.

"REPACKAGING." The placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

"RESTAURANT." An establishment where the usual and customary business is the serving of meals to consumers and has a bona fide kitchen facility and that derives more than fifty percent (50%) of its food and beverage receipts from the sale of food.

"RETAIL OUTLET." A retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

"RETAIL SALE." Any sale where delivery is made in Kentucky to any customers.

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

"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.

"SELL." To solicit or receive an order for, keep or expose for sale, keep with intent to sell and the delivery of any alcoholic beverage.

"SMALL FARM WINERY." A winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year.

"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" shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

"WET." A territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, 242.125, or 242.1292 on the following questions: "Are you in favor of the sales of alcoholic beverages in the City of Morehead, Kentucky?"

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

"WHOLESALER." Any person, firm or corporation who distribute alcoholic beverages for the purpose of being sold at retail, but shall not include a subsidiary of a manufacture or cooperative of a retail outlet.

"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, 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 such preparations or mixtures contain not exceeding fifteen percent (15%) by volume. It includes cider, perry or sake.

"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.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.03 CLASSES AND NUMBER OF LICENSES.

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 he or she holds the required state and local license that authorizes the act.

(A) Classes of licenses. The following classes of licenses are created and subject to be issued in accordance with all terms, conditions, and qualifications as set out herein:

(1) Quota retail package license. This license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises. Such a licensee shall purchase distilled spirits and wine in retail packages only and only from licensed wholesalers. The licensee may sell only to consumers and may make deliveries only at the premises designated in his or her license. The holder of a quota retail package license may also hold a nonquota retail malt beverage package license.

(2) Quota retail drink license. This license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers, and unless he or she also holds a quota retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the quota retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its food and beverage income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A quota retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package. The holder of a quota retail drink license may also hold an NQ4 retail malt beverage drink license.

(3) Nonquota ("NQ") malt beverage package license.

(a) A nonquota retail malt beverage package license shall authorize the licensee to:

1. Sell malt beverages at retail by the package from the licensed premises only for consumption off the licensed premises only: and

2. Purchase malt beverages only from a distributor.

(b) The holder of a quota retail package license under KRS 243.240 may also obtain a license under this section.

(c) The holder of a nonquota retail malt beverage package license may also hold an NQ4 retail malt beverage drink license.

(d) A nonquota retail malt beverage package license shall not be issued to sell malt beverages at retail for 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 maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000.00) of food, groceries, and related products valued at cost.

(e) The term "FOOD AND GROCERIES" means:

1. Any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption:

2. Seeds and plants to grow food for personal consumption.

(f) The provisions of this section shall not apply to any licensed premise which sells no fuel other than marine fuel.

(4) Nonquota type 2 (NQ2) retail drink license.

(a) A Nonquota type 2 (NQ2) retail drink license may be issued to:

1. A hotel that:

A. Contains at least fifty (50) sleeping units;

B. Contains dining facilities for at least one hundred (100) persons; and

C. Receives from its total food and beverage sales at least fifty percent (50%) of its gross receipts from the sale of food; and

2. A restaurant with a minimum seating for fifty (50) consumers at tables.

(b) A qualifying hotel or restaurant with seating for at least one hundred (100) consumers at tables holding an NQ2 retail drink license may purchase, receive, possess and sell distilled spirits, wine and malt beverages at retail by the drink for consumption on the licensed premise. The licensee shall purchase distilled spirits, wine or malt beverages only from licensed wholesalers or distributors. An NQ2 retail drink license shall not authorize the licensee to sell distilled spirits, wine or malt beverages by the package. The holder of an NQ2 retail drink license shall comply with the requirements of division (A)(2) herein, quota retail drink license.

(c) A restaurant holding an NQ2 retail drink license which has seating for more than fifty (50) but less than one hundred (100) consumers at tables may only purchase, receive, possess, and sell wine and malt beverages at retail by the drink for consumption on the licensed premises. The licensees shall purchase wine and malt beverages only from licensed wholesalers or distributors. An NQ2 retail drink license shall not authorize the licensees to sell wine and malt beverages by the package.

(d) An NQ2 retail drink license shall not be issued for any restaurant or any dining facility in a hotel, unless the applicant can demonstrate to the City 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 percent (50%) of the total food and alcoholic beverage receipts of the restaurant or dining facility for the license period.

(5) Nonquota type 3 (NQ3) retail drink license.

(a) A nonquota type 3 (NQ3) retail drink license may be issued to a private club in existence for longer than one (1) year prior to the license application.

(b) An NQ3 retail drink license issued to a private club shall authorize the licensee to exercise the privilege of an NQ2 retail drink licensee, at the designated premise if the general public is excluded.

(6) Nonquota type 4 (NQ4) retail malt beverage drink license.

(a) This license may be issued to the holder of a quota retail drink license, microbrewery license, small farm winery license or any other business wishing to sell malt beverages by the drink on the premises only.

(b) This license shall authorize the licensee to:

(1) Sell malt beverage at retail by the drink from only the licensed premises for consumption at the licensed premises only; and

(2) Purchase malt beverages only from a distributor.

(c) The holder of an NQ4 retail malt beverage drink license may also hold a nonquota retail malt beverage package license.

(d) A nonquota retail malt beverage drink license shall not be issued to 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 maintained in inventory on the premises for sale at retail no less than five thousand dollars (\$5,000.00) of food, groceries, and related products valued at cost. For purposes of this division (A)(6)(d), the term "FOOD AND GROCERIES" has the meaning provided in KRS 243.280. This section shall not apply to any licensed premise that sells no fuel other than marine fuel.

(7) Sunday retail drink license. This license shall authorize the retail sale of distilled spirits and wine by the drink for consumption on the premises only during the times and hours permitted in § 113.08(J) herein.

(8) Special temporary license.

(a) A special temporary license may be issued to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the Board a necessity therefor exists. The license shall authorize the licensee to exercise the privileges of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee at designated premises for a specified and limited time, not to exceed thirty (30) days, and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or NQ4 retail malt beverage drink license shall apply also to a temporary licensee.

(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 (10) 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 distilled spirits, wine or malt beverages by the drink for consumption at the event only.

(9) 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 or an NQ2 license.

(b) A caterer's license may be issued a primary license for the premise that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premise 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 243.250, 243.280 and 244.310.

2. Transport, sell, serve, and deliver malt 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 malt beverages for a customer and his or her guests if the catering of food at the catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages.

3. Transport, sell, serve, and deliver distilled spirits and wine 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 his or her guests if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages.

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

5. Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host 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 license or special temporary licenses have been issued. A caterer licensee may caterer a fundraising event for which a special temporary distilled spirits and wine auction license has been issued under KRS 243.036 and section 5 herein.

(e) 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.

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

(g) The name and license numbers of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the Board of promulgation of an administrative

regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

(h) All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee not inconsistent with this section shall apply to the caterer.

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

(10) Microbrewery license.

(a) This license shall authorize the licensee to perform the following functions:

1. Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at such microbrewery shall not exceed twenty-five thousand (25,000) barrels in one (1) year;

2. Serve on the premises complimentary samples of malt beverages produced by such microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;

3. Sell malt beverages produced on the premises of the microbrewery to licensed distributors.

4. Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with division (A) (10) (c) 2. and 3. of this section.

(b) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provision of KRS 243.180.

(c) In accordance with the provisions of this section, a microbrewery license holder may:

1. Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section.

2. Sell malt beverages produced on the premise of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:

A. The microbrewery possesses a retail drink license for those premises:

B. The microbrewer has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and

C. The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewer and sold at retail at the microbrewery under the provisions of its retail drink license. The report required under this division (A) (10) (c)2.C. shall:

(i) Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and

(ii) Be provided on a form promulgated by the Board by administrative regulations. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that Department in accordance with its powers under KRS 131.130(3) and any administrative regulations promulgated thereunder.

(iii) Nothing in this division (A) (10) (c)2.C. shall require a distributor to verify the accuracy of the information provided by the microbrewery in the report; and

3. Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a license distributor provided that:

A. The microbrewery possesses a retail package license for those premises:

B. The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverage to any other retailer; and

C. The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery under the provisions of its retail package license. The report required under this division (A) (10) (c)3. shall:

(i) Be provided to the distributor on or before the tenth day of the month next succeeding the amount in which the malt beverages were produced and sold at the microbrewery; and

(ii) Be provided on a form promulgated by the Board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that Department in accordance with its power under KRS 131.130(3) and any administrative regulation promulgated thereunder.

(iii) Nothing in this division (A) (10) (c)3.C. shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and

D. The provisions of division (A) (10) (c) 2. and 3. shall apply only to malt beverages that are:

1. Produced by the microbrewery at its license premises; and

2. Offered for sale by the microbrewer at that same premise under the microbrewery's retail drink or package license. All other malt beverages produced by the microbrewery which is offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241, 242, 243, and 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in division (A) (10) (c) 3.B. and C. of this section.

(d) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241, 242, 243 and 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the Board, except as expressly stated in this section. The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.

(11) Supplemental bar license.

(a) Except as where specifically authorized by statute, a retailer licensed to sell distilled spirits or wine by the drink shall only be permitted to sell or serve distilled spirits and wine by the drink at one (1) main bar, counter, or similar contrivance at the licensed premises.

(b) A retailer may have necessary service bars, if they are not located in any room in which the members or guests or patrons of the place are invited or permitted to come. No distilled spirits or wine shall be served at service bars.

(c) A supplemental bar license shall authorize the licensee to sell and serve distilled spirits and wine by the drink at retail from an additional location other than the main bar. A supplemental bar license is a nonquota license and shall not be transferable to other premises.

(d) A supplemental bar license shall not be issued unless:

1. The licensee applies to the State Distilled Spirits Director and meets all requirement for obtaining a supplemental bar license; and

2. The licensee pays a fee identical to the fee for the primary license authorizing retail distilled spirits and wine drink sales for each of up to five (5) supplemental bar license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

(e) 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 premise without obtaining supplemental bar license.

(12) Special temporary distilled spirits and wine auction license.

(a) A special temporary distilled spirits and wine auction license may be issued to a charitable organization, upon the payment of the fee set forth in KRS 243.030 and upon satisfaction of the requirements prescribed by administrative regulation promulgated by the Department.

(b) A special temporary distilled spirits and wine auction license shall authorize the charitable organization to:

(1) Purchase, transport, receive, possess, store, sell, and deliver distilled spirits and wine to be sold at auction in the manner prescribed by administrative regulation promulgated by the Department;

(2) Obtain distilled spirits and wine from distillers, rectifiers, wineries, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity auctions in the manner prescribed by administrative regulation promulgated by the Department; and

(3) Receive payment for distilled spirits and wine sold at auctions in the manner prescribed by administrative regulation promulgated by the Department.

(c) Each distilled spirits and wine auction 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 are otherwise authorized in the county or municipality.

(d) The location at which the distilled spirits and wine are auctioned under this section shall not constitute a public place for the purpose of KRS Chapter 222. Distilled spirits and wine auctions may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary distilled spirits and wine auction license shall post a copy of the license at the location of the auction. During this period not more than one (1) auction shall be held.

(e) A special temporary distilled spirits and wine auction license shall not be issued for any period longer than thirty (30) days. During this period not more than one (1) auction shall be held.

(f) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, winery, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a

charitable organization possessing a special temporary distilled spirits and wine auction license under this section.

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

(13) Distributor's license.

(a) A distributor's license shall authorize the licensee to:

1. Purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located;

2. Import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue;

3. Sell his or her products to the holder of a special nonbeverage alcohol license: or

4. Store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption, and to charitable or fraternal organizations holding group meetings, picnics, or outings.

(b) A distributor shall transport malt beverages only by a vehicle owned, rented, or leased and operated by the distributor, which has affixed to its sides at all times a sign of form and size prescribed by the State Board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

(c) 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.

(14) Wholesaler's license.

(a) A licensed wholesaler may purchase, receive, store, or possess distilled spirits and wine to sell at wholesale, from the licensed premises only, and to transport from the licensed premises for himself or herself only any alcoholic beverage that the wholesaler's license authorizes the licensee to sell. The wholesaler may transport:

1. Beverages in the manner provided for manufacturers in KRS 243.120; and

2. Distilled spirits and wine from a manufacturer's warehouse or from another licensed wholesaler's premises to his or her licensed premises, if consumer's spirits stamps have been properly affixed to the spirits or wine that the wholesaler transports.

(b) The holder of a wholesaler's license may sell his or her products to the holder of a special nonbeverage alcohol license.

(B) Number of licenses. The licenses to be issued under the classifications set out above shall not be restricted except as follows:

(1) Quota retail package liquor license. One license for each two thousand three hundred (2,300) population within the county.

(2) Quota retail drink license. One (1) license for each two thousand five hundred (2,500) population of the county, as determined by the last United States Census, notwithstanding the provisions of 804 KAR 9:010 which provides criteria for issuance of licenses in excess of the established number.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 11:2001, passed 5-14-01; Am. Ord. 01:2005, passed 2-14-05; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 16:2011, passed 5-23-11; Am. Ord. 28:2013, passed 11-11-13)

§ 113.04 APPLICATION PROCESS.

The local administrator shall have the discretion to approve or disapprove any application or renewal. All applications and renewals shall be submitted on the form required by the Commonwealth of Kentucky. The application shall be accompanied by a certified check, cash, postal or express money order, or corporate check for the license fee. An application which is substantially incomplete or which does not contain the correct fee will be rejected. The local administrator shall have up to thirty (30) days to process the application.

(A) General application requirements:

(1) Original applications.

(a) The basic application for alcoholic beverage license that the Commonwealth of Kentucky shall be completed and submitted to the city's ABC Administrator.

(b) Publishing requirements. Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage license, a vendor license, a transporter's

license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license. The notice shall state:

(1) The name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;

(2) The location of the premises for which the license is sought and the type of license being requested: and

(3) The date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."

(c) The licensed premises shall be in compliance with all life-safety and building codes. The City Building Inspector/Planner or someone approved by the City Building Inspector/Planner shall conduct an inspection of the premises to ensure compliance prior to issuing a license.

(2) Renewal applications. A licensee shall be required to request a renewal ten (10) business days before the expiration of the license for the preceding period. The license shall be renewed after the Local Administrator inspects the licensed premises to ensure that said premises meets all life-safety and building code requirements, submission of proof of a state license, submission of renewal fees, and any and all other requirements set forth herein. Any license that is not renewed before July 1st will be considered expired. If the state's license is also expired, then the licensee will be required to reapply for a new license in accordance with the rules of the Commonwealth of Kentucky and the original application procedure including the publishing requirements. If the state's license did not expire, but the city's license is expired more than thirty (30) days, then a penalty of one hundred dollars (\$100.00) shall be assessed against the applicant.

(3) No license, original or renewal, will be issued until a license is received from the Commonwealth of Kentucky and if the fee is paid by corporate check until the check has cleared the bank. If the check is returned for any reason, the application will be denied and all subsequent payments and renewal fees may only be made by certified check, cash or money order.

(B) Persons who may not receive a license.

(1) No license shall be issued to any person or corporation until after a license has been issued by the Commonwealth of Kentucky.

(2) No license shall be issued to any natural person under this chapter if he or she:

(a) Has been convicted of any felony in the five (5) 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 described under KRS 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130 in the two (2) 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 (2) years immediately preceding the application; or

(d) Has had any license issued under this ordinance 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 such Kentucky Revised statute relating to the manufacture, sale and transportation of alcoholic beverages, until the expiration of two (2) years from the date of the revocation or conviction;

(e) Is under the age of twenty-one (21) years;

(f) Is not a citizen of the United States and has not been an actual, bona fide resident in this state for at least one (1) year before the date on which his or her application for a license is made. This division (B)(2)(f) shall not apply to applicants for manufacturers' licenses or to applicants that are corporations authorized to do business in this state.

(3) No license shall be issued to a partnership, limited partnership, limited liability company or corporation if:

(a) Each member of the partnership or each of the directors, principal officers, or managers does not qualify under division (B)(2)(a), (b), (c) and (e) of this section;

(b) It has had any license issued under this ordinance relating to the regulation the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such Kentucky Revised statute relating to the manufacture, sale and transportation of alcoholic beverages, until the expiration of two (2) years from the date of the revocation or conviction; or

(c) It is a partnership or corporation, if any member of the partnership or any director, manager or principal officer of the corporation has had any license issued under any statute 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 such Kentucky Revised statute relating to the manufacture, sale and transportation of alcoholic beverages, until the

expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.

(4) The provisions of division (B) (2) (a) and (b) 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.

(C) License fees and terms of licenses.

(1) Application fees. Upon submission of an original application or request for renewal, the applicant shall submit the stated fee listed below. Said fee shall be paid by cash, certified check, postal or express money order, or corporate check. Only the person or business entity making the application and no other person or business entity shall pay for any license issued under this chapter.

(2) Upon an application for a new license authorized under the Kentucky Revised Statutes and the City of Morehead Code of Ordinances, the applicant shall be charged, if the license is issued, the full fee listed below for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) of the fee listed below if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any applicant who held a license for 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.

(3) The license fees shall be as follows:

(a)	Quota retail package license	\$630.00 or maximum allowed by law
(b)	Quota retail drink license	\$630.00 or maximum allowed by law
(c)	Nonquota (NQ) malt beverage package license	\$200.00 or maximum allowed by law
(d)	Nonquota type 2 (NQ2) retail drink license	\$630.00 or maximum allowed by law
(e)	Nonquota type 3 (NQ3) retail drink license	\$300.00 or maximum allowed by law
(f)	Nonquota type 4 (NQ4) retail malt beverage drink license	\$200.00 or maximum allowed by law
(g)	Sunday retail drink license	\$300.00 or maximum allowed by law
(h)	Special temporary license	\$166.66 or maximum allowed by law

(i)	Caterer's license	\$800.00 or maximum allowed by law
(j)	Microbrewery license	\$500.00 or maximum allowed by law
(k)	Supplemental bar license	\$630.00 or maximum allowed by law. This is the fee for each of the first five (5) supplemental bar licenses. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
(l)	Special temporary distilled spirits and wine auction license	\$200.00 or maximum allowed by law
(m)	Distributor's license	\$400.00 or maximum allowed by law
(n)	Wholesaler's license	\$3,000.00 or the maximum allowed by law

(4) 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 (\$50.00). 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 (\$50.00).

(5) The license fee for special temporary licenses shall be waived for microbreweries and small farm wineries participating in festivals sponsored by the city. The entities shall hold all required licenses from the Commonwealth of Kentucky and be in good standing with the city.

(6) Expiration of license. All licenses, except special temporary licenses, issued under this chapter shall expire on June 30 of each year and the application/renewal fee shall be due and payable before July 1 of each year.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 11:2001, passed 5-14-01; Am. Ord. 01:2005, passed 2-14-05; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 22:2009, passed 8-10-09; Am. Ord. 27:2009, passed 11-9-09; Am. Ord. 15:2011, passed 5-23-11; Am. Ord. 20:2012, passed 8-13-12; Am. Ord. 28:2013, passed 11-11-13)

§ 113.05 GENERAL REQUIREMENTS

All licenses granted hereunder shall be subject to the conditions of this chapter and the Kentucky Revised Statutes.

(A) License form. All city licenses issued under this chapter shall be printed so as to be readily distinguished from other licenses and in such form as may be prescribed by the Board of City Council and shall contain the following:

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

(B) Posting of licenses.

(1) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this chapter 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 to be posted, upon premises other than the licensee's 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.

(C) All alcoholic beverage retailers shall have printed on the front window of the licensed premises the name of the licensee together with the inscription: "Kentucky Retail Package Liquor Licenses No....." in uniform letters not less than three (3) inches in height.

(D) Required warning displays.

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking

alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

"Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

(a) Enter licenses premises to buy, or have served to them, alcoholic beverages.

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

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

(E) Accounting requirements. Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages and food in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the Local Administrator. Such books and records shall be kept on the premises or made available at all reasonable times for inspection by the Local Administrator or his representative.

(F) Taxes. No license to sell alcoholic beverages shall be granted to any person, firm, or corporation which is delinquent in payment of any taxes due to the city at the time of issuing the license; nor shall any license be granted to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes or delinquent fines due to the city. In such cases, if taxes due the city for any taxing period prior to the date of application for a license are unpaid and delinquent upon the property or premises upon which a license to sell is sought, the Local Administrator, may, in his discretion, approve a license to sell after receiving written proof that arrangements have been made for payment of the indebtedness represented by the unpaid and delinquent taxes. This section shall apply only to taxes which are due and payable by the licensee or associated with the premises or property upon which a license to sell is issued.

(G) Transferability of license. No license issued by the city to sell alcoholic beverages at retail shall be transferable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the Local Administrator and same has been approved. However, if a corporation or partnership holding a license to sell alcoholic beverages at retail is dissolved, or if a receiver, assignee for the benefit of creditors, or a committee for the property of a licensee is appointed during the time for which a license

is granted, or if a licensee dies during the time and a personal representative is appointed for his or her estate or the licensee is adjudged incompetent by a court of proper jurisdiction and a guardian or conservator is appointed for the licensee, then, after making written application to the Local Administrator and State Alcoholic Beverage Control Board, setting forth the circumstances by which he or she has succeeded to the rights of the original licensee, the corporation, partnership, receiver, assignee, personal representative, guardian or conservator may continue the business with the approval of the Local Administrator upon the licensed premises for the balance of the terms for which the license was effective with the same right subject to same restrictions and liabilities as the original licensee. Provided further that in the event of destruction by an act of God or unavoidable accident of the premises for which a licensee has been issued, the Local Administrator may change the license to authorize continuance of business at other premises upon written application by the licensee for such a transfer, setting out the circumstances by virtue of which he or she desires such a transfer to be made.

(H) Licensee to receive copy of ordinance. The Local Administrator shall furnish to licensee a copy of this chapter at the time the license is issued with signed receipt from licensee. Any changes or amendments to same shall be forwarded to licensee at address on the license. Failure to receive or review such changes or amendments or review the chapter shall not be an excuse or justification for any violation or prevent, remit or decrease any penalty for a violation.

(I) Inspections. The City Alcoholic Beverage Control Administrator, his or her investigators, and the City of Morehead Law Enforcement Officers may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored or otherwise trafficked, without first obtaining a search warrant. The City Alcoholic Beverage Control Administrator and his or her investigators shall have full police power while performing any such inspections, including the removal from the premises of all things and articles in violation of the City of Morehead Code of Ordinances or state laws. Violations shall be grounds for suspension or revocation of the license and the Department of Alcoholic Beverage Control will be notified.

(J) Removal of partially consumed bottle of wine from restaurants licensed by the Commonwealth and the city.

(1) A restaurant licensed under this chapter and KRS 243.030 may permit a patron of the restaurant to remove one (1) opened container of wine from the restaurant's premises for consumption off the premises if the patron has purchased and partially consumed the bottle of wine with a meal on the restaurant's premises.

(2) A partially consumed bottle of wine that is removed from the premises shall be securely resealed by the restaurant licensee or its employee before the bottle is removed from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in a manner that makes it visibly apparent if

the container has been subsequently opened or tampered with, and the licensee shall provide a dated receipt for the wine to the patron.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2009, passed 11-9-09; Am. Ord. 18:2012, passed 7-9-12; Am. Ord. 28:2013, passed 11-11-13)

§ 113.06 ADVERTISING RESTRICTIONS.

Every licensee shall be required to comply with existing statutes pertaining to advertising, and all existing ordinances regulating signs, as amended from time to time. No licensee shall advertise any malt beverage by trade name, trade-mark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.07 LOCATION, PREMISES AND STRUCTURE REQUIREMENTS.

(A) Conduct requirement. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.

(1) A retail licensee, a patron, or the licensee's agents, servants or employees shall not cause, suffer, or permit the licensed premises to be disorderly.

(2) 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 create a risk through:

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

(b) Making unreasonable noise;

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

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

(e) Creating a public nuisance;

(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.

(B) Zoning restrictions. For the purpose of regulating the location of retail package liquor and retail drink (malt beverages, wine, and liquor) licenses in the city and various zoning districts as fixed and established by the city planning and zoning ordinance and the zoning map adopted thereby, as the same may from time to time be amended the zoning restrictions are hereby adopted as a part of this chapter.

(1) No license shall be issued to any person, firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where such business is prohibited under the present zoning ordinance or any other ordinances of the city or any ordinance supplementary or amendatory to same and any license issued in violation of this section shall be void.

(2) No nonquota malt beverage package license shall be granted or issued to any licensee which is located within one hundred (100) feet of the location of any similar establishment in any B-1, B-2, or B-3 commercial district or any industrial district within one hundred (100) feet of a similar establishment located in any other district.

(3) A quota retail package license shall not be granted or issued to any person who will sell retail package liquor at any location within one thousand (1000) feet of the location of any licensed retail package liquor establishment located in the city.

(C) The distance between locations of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurements shall be taken from the entrance of existing licensed premises to the entrance of any proposed location.

(D) No license shall be granted for any premises located within a residential zone or within one hundred (100) feet adjoining a residential zone.

(E) No license shall be issued unless the premises to be licensed conforms to the sanitary, safety, and building code requirements of the city and rules and regulations of the State Board of Health applicable thereto. Further, the Local Administrator shall not grant any alcoholic beverage license by the drink until such applicant and his, her or its place of business have been approved by the State Health Department and City Building Inspector.

(F) Any person, firm or corporation holding a nonquota type 4 retail malt beverage drink license or nonquota type 2 retail drink license shall maintain an easily discernible physical barrier between the bar area and the general dining area. Said bar area shall be posted "Person under twenty-one (21) years of age may not enter or remain in this area".

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.08 GENERAL PROHIBITIONS.

(A) No person, firm, or corporation holding a license under this chapter to sell alcoholic beverages of any kind, shall give away or offer to give anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages. All sales of alcohol shall be for cash only.

(B) No person, firm, or corporation holding a license under this chapter to sell alcoholic beverages at retail shall permit any person or persons other than employees of the licensee, to open any bottle of distilled spirits or wine, nor allow said contents consumed on the licensed premises unless the licensee has the proper licenses.

(C) No person, firm, or corporation holding a license under this chapter to sell any alcoholic beverages shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(D) No person, firm or corporation holding a license under this chapter to sell alcoholic beverages shall maintain distilled spirits or malt beverages outside of the locked or closed-off departments of any premises at which a license is held to sell distilled spirits at retail at any hours during which the licensee is prohibited by the Kentucky Alcoholic Beverage Control Act or by this chapter from selling said distilled spirits or malt beverages. If distilled spirits or malt beverages are found outside of the locked or closed-off departments, then a prima facie presumption shall arise that such distilled spirits or malt beverages were kept on the outside of the locked or closed-off department for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be grounds for revocation or suspension of the license, and in addition to other penalties provided for violation of this section the Local Administrator is authorized to confiscate such distilled spirits or malt beverages. This section shall also apply to wine.

(E) No person shall sell, give away or deliver any alcoholic beverages or procure or permit alcoholic beverages to be sold, given away or delivered to any person under the age of twenty-one (21) years.

(F) No person under the age of twenty-one (21) years shall purchase or attempt to purchase, or have another purchase for him or her, any alcoholic beverage at any premises licensed for the sale of alcoholic beverages. It shall be unlawful likewise for any person to aid or assist any person under the age of twenty-one (21) years in purchasing or having delivered or served to him or her, any such alcoholic beverage on or off such premises.

(G) No person under the age of twenty-one (21) years shall misrepresent His or her age for the purpose of inducing any retail licensee, or an employee of any retail licensee, to sell or serve any alcoholic beverages to him or her.

(H) No person under the age of twenty-one (21) years shall possess in the city, any alcoholic beverages outside of the confines of his or her abode or residence. Any alcoholic beverages found in possession of such person shall be liable to seizure as contraband.

(I) No person, firm, or corporation conducting a place of business in the city patronized by and open to the general public or any private club as defined in the Kentucky Revised Statutes, who does not hold the necessary licenses, as herein provided, shall sell, barter, loan, give away, or drink any alcoholic beverages on the premises of his or her place of business, nor shall any proprietor of such unlicensed premises patronized by and open to the general public or any agent or employee of such proprietor, have in his or her possession any alcoholic beverages on any portion of his or her premises which is open to the general public.

(J) Hours for sale and consumption.

(1) No licensee, unless permitted herein, shall sell alcoholic beverages between the hours of 12:00 midnight and 6:00 a.m. prevailing time, nor Sunday, nor any election day during the time when the polls are open.

(2) Restaurants holding a Sunday retail drink license may sell distilled spirits, wine and malt beverages by the drink on Sunday from 1:00 p.m. to 12:00 midnight.

(3) Any licensee shall, on New Year's Eve, December 31, be permitted to sell alcoholic beverages until 1:00 a.m. on January 1. This exception shall not apply should New Year's Eve fall upon a Sunday, unless a premise has been granted a special Sunday retail drink license to sell distilled spirits, wine and malt beverages on Sunday.

(4) Consumption of alcoholic beverages on licensed premises may not continue for more than thirty (30) minutes after the respective hours set forth herein for sales to stop.

(K) No retailer, except one holding the required license, as defined in this chapter shall permit the consumption of alcoholic beverages upon the premises unless it holds a separate retail drink license.

(L) No person, firm or corporation holding a license under this chapter shall sell any alcoholic beverages behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen it from public view. Further, the entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be so erected and maintained as 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 observations of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view of the general observation of persons.

(M) No person, firm, or corporation holding a license under this chapter shall permit gambling, dice, slot machines or any game of chance of any sort in any form upon licensed premises. This subsection shall not apply to the sale of lottery tickets sold under the provisions of KRS Chapter 154A or the conduct of charitable gaming by a charitable organization licensed and regulated under the provision of KRS Chapter 238.

(N) No distributor or retail dealer shall buy any alcoholic beverage in the city except from a person holding a license in conformity with this chapter.

(O) Every person, firm, or corporation holding a license under this chapter shall not have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages. In addition to other penalties provided for the violation of this section, the Chief of Police or the Local Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(P) All restrictions and prohibitions relating to the manufacture, storage, sale, purchase, transporting or other traffic in alcoholic beverages under this chapter and the Kentucky Revised Statutes and rules and regulations promulgated by the ABC Board shall have application to the nonquota type 3 retail drink license.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 01:2005, passed 2-14-05; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 20:2009, passed 8-10-09; Am. Ord. 29:2009, passed 11-9-09; Am. Ord. 17:2013, passed 7-8-13; Am. Ord. 28:2013, passed 11-11-13)

§ 113.09 DANCING REGULATIONS.

(A) License requirement. Dancing shall not be permitted on any premises within the city for which an alcoholic beverage license is held unless a dancing license is obtained from the city for the premises. This license is not an occupational license and shall be in addition to any required occupational tax.

(B) Application for license. Applications for dancing licenses shall be in writing, be signed by the person holding the alcoholic beverage license for the premises for which the license is applied for, in the case the applicant is a corporation, by the directors of the corporation, and designate the areas of the premises which is proposed to be used for dancing. All applications for dancing licenses shall be filed with the Local Administrator.

(C) Inspection of premises. Upon receipt of an application for a dancing license, the Local Alcohol Beverage Control Administrator of the city shall refer the same to the Building Inspector and the Fire Chief. No dancing license shall be issued until:

(1) The Building Inspector of the city shall have inspected the premises to be licensed and have found that the portion of the premises to be used for dancing is to be structurally safe to accommodate a dance floor.

(2) The Fire Chief has inspected the premises to be licensed and has found the same to meet all state and city fire regulations.

(D) Issuance of license. Upon approval of the Building Inspector and Fire Chief endorsed on the application filed with the Local Administrator, the Local Administrator shall issue a dancing license upon payment to the city of a license fee of fifty dollars (\$50.00).

(E) Conditions of issuance. All dancing licenses granted by the city shall be granted subject to the following conditions and all other conditions of other ordinances of the city applicable thereto:

(1) Every licensed premises shall at all times be conducted in an orderly manner and no disorderly riotous, or indecent conduct shall be allowed at any time on any licensed premises and no nuisance suffered, permitted, or maintained thereon.

(2) The license shall authorize dancing only on the premises of the license holder in the area designated in the application as a dance floor, except, upon approval of the Local Administrator, the dance floor may be moved from one part of the premises to another. (Ord. 5:2000, passed 5-8-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.10 WHOLESALE AND DISTRIBUTORS.

Every wholesale distributor of alcoholic beverages who sells within the city, shall report to the Local Administrator the following information:

(A) The names of all retailers to whom alcoholic beverages were sold in the preceding quarter.

(B) The gross revenues received by the wholesaler or distributor from each retailer.

(C) The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate shall be provided to Local Administrator.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.11 REGULATORY LICENSE FEE.

(A) A regulatory license fee is imposed on the gross receipts of the sale of alcoholic beverages of each licenses issued under this chapter. The license fee for the effective date, July 19, 2004 shall be four percent (4%). Thereafter the City Council shall annually adopt at the budget adoption of each fiscal year, such percentage rates as shall be reasonably estimated to insure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses, related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee, or license permitted by law, but a credit against such fee shall be allowed in amount equal to the license or fee imposed this chapter and such regulatory fee shall be applied annually.

(B) Payment of such fee shall accompany the returns approved for such use by the city and shall be submitted to the City Clerk by the twentieth day of each month for the preceding month's sales, one-twelfth of the annual license fee required under this chapter shall be deducted each month as credit.

(C) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension or revocation of said license by the Local Administrator.

(D) Penalty for failure to file a return and pay monthly remittance by the due date is twenty percent (20%) of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the license fee provided, however, in no case shall the penalty be less than twenty percent (20%).

(E) Interest on unpaid license fee shall be calculated at the rate of one-half of one percent (.5%) against the total amount of license fee overdue at any time.

(Ord. 5:2000, passed 5-8-00; Am. Ord. 15:2004, passed 6-14-04; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 28:2013, passed 11-11-13)

§ 113.99 REVOCATIONS, SUSPENSIONS, CLOSING AND HEARINGS, AND PENALTY.

(A) Revocations and suspensions.

(1) Any license may be revoked or suspended by the Local Administrator if the licensee violates any of the provisions of KRS Chapters 241, 242, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee violates any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 241, 242, 243 or 244 to be created, or if any clerk, agent, servant or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked for any cause which the Local Administrator in the exercise of his or her sound discretion deems sufficient. A license may be revoked for any of the reasons for which the Local Administrator would have been required to refuse a license if the facts had been known.

(a) First violation. The licensee shall be subject to a fine of five hundred dollars (\$500.00) and shall have his or her license suspended for a period of seven (7) days.

(b) Second violation. For a second violation within two (2) years of the first violation, the licensee shall be subject to a fine of one thousand dollars (\$1,000.00) and shall have his or her license suspended for a period of fourteen (14) days.

(c) Third and subsequent violations. For a third violation within two (2) years of the second violation, the licensee shall be subject to a fine of two thousand dollars (\$2,000.00) and shall have his or her license suspended for a period of thirty (30) days.

(2) A revocation or suspension of a license shall become effective seven (7) consecutive days following the mailing by certified mail or hand-delivering of a notice of revocation or suspension, to the licensee and to the owner of the licensed premises. The licensee shall at once surrender his or her license to the Local Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the Local Administrator shall immediately cause one (1) of his or her officers to take physical possession of the license and return it to the Local Administrator.

(3) Upon notice of suspension of license by the Local Administrator, the licensee with the consent of the Local Administrator, may, in lieu of the suspension, pay to the city, the sum of fifty dollars (\$50.00) per day for each day of suspension.

(4) Hearings conducted by the Local Administrator relating to suspension or revocation shall be conducted in the manner prescribed below. Notice of such hearing shall be mailed via certified mail or hand-delivered to licensee at the address on his or her application. Notice shall set the time and place of such hearing and contain charges of violations.

(5) Appeal from the decision of the Local Administrator shall be to the State ABC Board.

(B) Temporary closing. In the course of any one day of operation of a licensed premise, should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, for example disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the Local Administrator by the Chief of Police. The Local Administrator shall in the interest of public health, safety, morals, and welfare direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the Local Administrator; such review shall occur on the next business day.

(C) Hearings.

(1) Should the applicant or licensee request the Local Administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply.

(2) Definitions. All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS 241, 242, 243, and 244) and this chapter unless otherwise specified.

(3) Appearances. Any applicant or licensee may appear and be heard in person, or by his or her attorney, and may produce under oath evidence relative and material to matters before the Local Administrator.

(4) Briefs. Briefs may be filed at the option of the applicant or licensee.

(5) Rules of evidence. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall govern hearings before the Local Administrator, provided, however, that the hearing officer may relax such rules in any case where, in his or her judgment, the ends of justice will be better served by so doing.

(6) Subpoenas. The Local Administrator shall have subpoena power for such hearings and shall at the request of the applicant, issue such subpoenas.

(7) Transcript. Upon request and at the cost of the applicant or licensee the hearing may be transcribed.

(8) Decisions. All decisions shall be written and based upon evidence developed at the hearing.

(D) Penalty for violation of § 113.08(E). Any person violating § 113.08(E) shall be issued a citation and subject to the following fines:

(1) First violation. The person shall be subject to a fine of two hundred dollars (\$200.00).

(2) Second violation. For a second violation within two (2) years of the first violation, the person shall be subject to a fine of four hundred dollars (\$400.00).

(3) Third and subsequent violations. For third and subsequent violations within two (2) years of the second violation, the person shall be subject to a fine of six hundred dollars (\$600.00).

(E) Penalty for violation of § 113.11. The City Clerk shall notify the Code Enforcement Officer of those persons, firms or corporations who have refused to make a return and/or pay the tax due thereunder required by this chapter. Upon receipt of this information, the Code Enforcement Officer may issue a notice of violation to the offender. The notice shall specify a period of time the offender has to remedy the violation. If the offender fails or refuses to remedy the violation, the offender shall be issued a citation by the Code Enforcement Officer of the city. If the Code Enforcement Officer believes that the violation presents a serious threat to the public health, safety, and welfare or if, in the absence of immediate action, the effects of the violation will be irreparable or irreversible, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a notice of violation.

(1) If the citation is not contested by the person or corporation with the violation, the following penalties shall apply; however, the Board may waive all or any portion of a penalty for an uncontested violation if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with said ordinance:

First offense	\$50.00
Second offense within two (2) years of the first offense	\$75.00
Third and subsequent offenses within two (2) years of the second offense	\$100.00

If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:

First offense	\$500.00
Second offense within two (2) years of the first offense	\$750.00
Third and subsequent offenses within two (2) years of the second offense	\$1,000.00

(Ord. 5:2000, passed 5-8-00; Am. Ord. 20:2000, passed 12-11-00; Am. Ord. 12:2006, passed 6-12-06; Am. Ord. 21:2009, passed 8-10-09; Am. Ord. 30:2009, passed 11-9-09; Am. Ord. 28:2013, passed 11-11-13)