

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

111.01 Definitions

Licenses

111.20 Classification of licenses; fee schedule
111.21 Form, content of city license
111.22 Application; issuance
111.23 Approval of application
111.24 Denial of application
111.25 Transfer of license
111.26 Premises selling groceries, gasoline, and the like prohibited from obtaining license

Sale of Alcoholic Beverages

111.40 Hours and days
111.41 Compliance with regulations and prohibitions
111.42 Maintenance of state license
111.43 Display of required licenses and certain signs
111.44 Criminal conduct on premises prohibited
111.45 Conducting business with minor
111.46 Illegal sexual conduct, exposure of human body
111.47 Business to be conducted continuously; exception

Administration and Enforcement

111.60 Alcoholic Beverage Control Administrator
111.61 Right of entry; search and seizure
111.62 Suspension, revocation of license

111.99 Penalty

Cross-reference:

Sale, use or consumption of alcoholic beverages prohibited in sexually oriented business, see § 116.08

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 241.010 and 243.010 have the meanings indicated therein.

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

(1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

(2) "CITY ABC ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city pursuant to § 31.37.

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

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

(5) "KRS." Kentucky Revised Statutes.

(6) "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.

(7) "PREMISES." The premises described in the city license issued pursuant to the terms hereof and the application therefor.

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

(9) "STATE LICENSE." A license authorized by KRS 243.030 to 243.670.

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

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

For provisions concerning the alcoholic beverage licenses, and their fees, required by the city, see § 110.10.

§ 111.21 FORM, CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established under § 110.10, shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

- (1) Comply with all of the provisions for state licenses required by KRS 243.440; and
- (2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for

RECEIVED
2014 AUG 7 AM 9 08
ALCOHOL
BEVERAGE CONTROL

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.

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City Clerk/Treasurer and renewed by him or her upon the expiration thereof upon receipt of the following documents and fees 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:

(A) 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 such application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements, and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer 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) The names, addresses, photographs, and fingerprints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

(B) The approval of the applicant, the application, and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier check, for the city license which is the subject of the application (Am. Ord. 91-07, passed 5-8-91)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof and a hearing in regard thereto.

RECEIVED
 2014 AUG 7 AM 9:08
 ALCOHOL
 BEVERAGE CONTROL

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(D) Any statement or representation in the application is false;
or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his or her discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter; the transfer of the license is approved by the City ABC Administrator; and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.

Penalty, see § 111.99

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

(A) As prohibited in KRS 243.230, 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.

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS AND DAYS.

(A) Any premises in the city to which a license for the sale by the drink ("retail liquor by the drink" or "restaurant by the drink") of malt beverages or distilled spirits or wine has been issued is hereby authorized to open for the sale of such beverages on Monday through Saturday, and may remain open for the sale of such beverages until 2:00 a.m. on those days. This includes 12:01 a.m. to 2:00 a.m. on Sunday morning.

(B) Any premises in the city to which a license for the sale by the drink of malt beverages or distilled spirits or wine has been issued may remain open until 2:30 a.m. for the sale of soft drinks and other non-alcoholic purposes.

(C) (1) Package sales are prohibited on Sundays. All alcohol sales are prohibited during the hours the polls are open for primary, regular, school or special election. On-premises consumption after sales ("liquor by the drink and restaurant by the drink") are prohibited after 2:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, the city may permit the sale of distilled spirits, beer or malt beverages, ("liquor by the drink and restaurant by the drink") on Sundays from 1:00 p.m. until 2:00 a.m. the following Monday at restaurants which:

(a) Have dining facilities with a minimum seating capacity of 100 people at tables; and

(b) Receive at least 70% or more of their gross annual income from the dining facilities from the sale of food.

Restaurants meeting these criteria may apply for a special Sunday "liquor by the drink"/"restaurant by the drink" license for these extended sales.

(2) The city shall have the power and authority to issue a Limited Sunday Retail Drink License upon proper application and the payment of the prescribed fee:

Limited Sunday Retail Drink License, per annum: \$100

RECEIVED
2014 APR 7 AM 9 08
ALCOHOL
BEVERAGE CONTROL

(3) The license shall ensure that all patrons shall have vacated the premises by 2:30 a.m. Operators and their employees, engaged in regular and ordinary post closing activities, may be on the premises during the closed hours, provided that the licensee has complied with division (C)(4) below.

(4) If a licensee provides a separate department within his or her licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his or her business as a licensee, and said department is kept locked during the time mentioned above, he or she shall be deemed to have complied with this section.

(5) Should any portion of this section be declared void or unconstitutional, the remaining provision of this section shall remain in full force and effect.

(D) Mandatory responsible beverage service training.

(1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a city-approved responsible beverage training program. For such a program to be approved by the city, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The city will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this section.

(2) All persons required to complete training, under division (D)(1) above, shall complete that training within 60 days of the date on which the person first becomes subject to the training requirement. All person completing the training required by this section shall be re-certified in responsible beverage service training, by a city-approved program not less than once every three years thereafter. All new hires shall have 90 days to complete their training.

(3) Each restaurant licensed by this section must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in divisions (D)(1) and (D)(2) above, on duty.

(4) The manager of the restaurant shall be responsible for compliance with these requirements and shall require all employees certified in responsible beverage service training to wear a picture identification badge while on duty identifying said employee as one licensed to serve alcohol, and shall keep proof of each employee's attendance at training available for inspection by the city ABC Administrator.

(E) Adequate record keeping. Every licensee shall keep and maintain adequate books and records of all transactions involved in the

sale of alcoholic beverages in the same manner required by the 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 City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator or any authorized representative.

(F) Audit requirements. The City Alcoholic Beverage Control Administrator may at his or her discretion required that a licensee make his or her records available to the city for the purpose of conducting an audit to verify compliance with the 70% food sales requirement.

(G) Penalties.

(1) Any person who violates any provision of this section for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(a) For the first offense a fine not to exceed \$500;

(b) For any subsequent offense a fine not to exceed \$500 or confinement in jail not more than six months, or both.

(2) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

('78 Code, § 9-5) (Am. Ord. 06-10, passed 5-10-06; Am. Ord. 06-11, passed 5-10-06) Penalty, see § 111.99

Statutory reference:

Authority to regulate hours of sale, see KRS 244.290 and 244.480

§ 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 ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control

RECEIVED
 APR 7 9 08
 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.

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.

Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, 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:

(A) 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 twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

b. Possess, purchase or attempt to purchase any alcoholic beverages; or

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

(B) 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.
Penalty, see § 111.99

Statutory reference:

Display of state license required, see KRS 243.620, 244.270, and 244.360

§ 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.
Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age, or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.
Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage, or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct as defined in KRS 531.010(4).

(B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:

- (1) The nipple of the female breast.
- (2) The female breast below the nipple.
- (3) The genitalia.
- (4) The pubic hair.

RECEIVED
2004 AUG 7 AM 9 08
ALCOHOL
BEVERAGE CONTROL

(5) The anus.

(Ord., passed 11-14-79) Penalty, see § 111.99

Cross-reference:

Sale, use or consumption of alcoholic beverages prohibited in sexually oriented business, see § 116.08

§ 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 ABC 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 ABC 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.

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

As required by KRS 241.160 and as set forth in § 31.37, the office of Alcoholic Beverage Control Administrator, also known as the City ABC Administrator, is hereby established.

§ 111.61 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

§ 111.62 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason, or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1,000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$100 per day; retail drink liquor licensees: \$25 per day; retail package liquor licensees: \$25 per day; retail beer licensees: \$10 per day; and all remaining licensees: \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC 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 ABC Administrator. The City ABC 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 ABC 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 registered mail.

RECEIVED
AUG 28 PM 9 08
STATE ALCOHOLIC BEVERAGE CONTROL

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500 or be imprisoned for not more than 30 days, or both.

(B) Any person who violates the distillers license fee provision of § 111.20 shall, upon conviction and in accordance with KRS 243.990(2), be guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(C) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44, or 111.45(A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990(1) and 244.990(1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(D) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990(5), 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 and in accordance with KRS 244.990(5) and (6), 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 guilty of a misdemeanor and 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.

ORDINANCE NO. 06-10

AN ORDINANCE OF THE CITY OF CARROLLTON, IN CARROLL COUNTY, KENTUCKY, AMENDING SECTION 111.40 OF THE CITY CODE OF ORDINANCES IN ORDER TO PROVIDE FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY.

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Carrollton, Kentucky, to establish hours and times in which alcoholic beverages may be sold within their jurisdictional boundaries;

WHEREAS, the Commonwealth of Kentucky Court of Appeals affirmed the validity of KRS 244.290 regarding the ability of a City to establish the hours for the sale of alcoholic beverages within its jurisdictional boundaries; and

WHEREAS, the City of Carrollton, Kentucky desires to establish the hours that alcoholic beverages may be sold, including Sundays, in compliance with KRS 244.290 and related statutory and case law.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CARROLLTON, CARROLL COUNTY, KENTUCKY, AS FOLLOWS:

Section 1. Section 111.40 of the City of Carrollton Code of Ordinances is hereby amended, as follows:

§ 111.40 HOURS AND DAYS

(A) Any premises in the City to which a license for the sale by the drink ("retail liquor by the drink" or "restaurant by the drink") of malt beverages or distilled spirits or wine has been issued is hereby authorized to open for the sale of such beverages on Monday through Saturday, and may remain open for the sale of such beverages until 2:00 a.m. on those days. This includes 12:01 a.m. to 2:00 a.m. on Sunday morning.

(B) Any premises in the City to which a license for the sale by the drink of malt beverages or distilled spirits or wine has been issued may remain open until 2:30 a.m. for the sale of soft drinks and other non-alcoholic purposes.

(D) MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

- (1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage training program. For such a program to be approved by the City, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The City will not require**

06-10

enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this ordinance.

- (2) All persons required to complete training, under paragraph (1) above, shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training, by a City approved program not less than once every three years thereafter. All new hires shall have ninety (90) days to complete their training;
- (3) Each restaurant licensed by this ordinance must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in paragraphs (1) and (2) above, on duty.
- (4) The manager of the restaurant shall be responsible for compliance with these requirements and shall require all employees certified in responsible beverage service training to wear a picture identification badge while on duty identifying said employee as one licensed to serve alcohol, and shall keep proof of each employee's attendance at training available for inspection by the City ABC Administrator.

(E) PENALTIES

- (A) Any person who violates any provision of this section for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
 - (1) For the first offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00);
 - (2) For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
- (B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

Section 2. This ordinance shall be effective upon its adoption and approval according to law, and publication thereafter.

Section 3. All ordinances or parts of any ordinances in conflict herewith, to the extent of the conflict, if any, are hereby repealed.

After a reading in full on the 25th day of April, 2006, followed by a second reading in full on the 10th day of May 2006, and on motion made by KEVIN CRAIG, seconded by DEAN MILLER, JR, the ordinance was adopted by a vote of 6 ayes and 0 nays.

Ann C Deatherage
ANN C. DEATHERAGE,
MAYOR, CITY OF CARROLLTON

ATTEST:

Susie McGee
SUSIE MCGEE
ASSISTANT CITY CLERK

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

111.01 Definitions

Licenses

111.20 Classification of licenses; fee schedule

111.21 Form, content of city license

111.22 Application; issuance

111.23 Approval of application

111.24 Denial of application

111.25 Transfer of license

111.26 Premises selling groceries, gasoline, and the
like prohibited from obtaining license

Sale of Alcoholic Beverages

- 111.40 Hours and days
- 111.41 Compliance with regulations and prohibitions
- 111.42 Maintenance of state license
- 111.43 Display of required licenses and certain signs
- 111.44 Criminal conduct on premises prohibited
- 111.45 Conducting business with minor
- 111.46 Illegal sexual conduct, exposure of human body
- 111.47 Business to be conducted continuously; exception

Administration and Enforcement

- 111.60 Alcoholic Beverage Control Administrator
- 111.61 Right of entry; search and seizure
- 111.62 Suspension, revocation of license

- 111.99 Penalty

Cross-reference:

Sale, use or consumption of alcoholic beverages prohibited in

sexually oriented business, see § 116.08

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 241.010 and 243.010 have the meanings indicated therein.

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

(1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

(2) "CITY ABC ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city pursuant to § 31.37.

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

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

(5) "KRS." Kentucky Revised Statutes.

(6) "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.

(7) "PREMISES." The premises described in the city license issued pursuant to the terms hereof and the application therefor.

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

(9) "STATE LICENSE." A license authorized by KRS 243.030 to 243.670.

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

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

For provisions concerning the alcoholic beverage licenses, and their fees, required by the city, see § 110.10.

§ 111.21 FORM, CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established under § 110.10, shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

(1) Comply with all of the provisions for state licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer 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.

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City Clerk/Treasurer and renewed by him or her upon the expiration thereof upon receipt of the following documents and fees 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:

(A) 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 such application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements, and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer 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) The names, addresses, photographs, and fingerprints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

(B) The approval of the applicant, the application, and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

(Am. Ord. 91-07, passed 5-8-91)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof and a hearing in regard thereto.

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(D) Any statement or representation in the application is false; or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his or her discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter; the transfer of the license is approved by the City ABC Administrator; and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.

Penalty, see § 111.99

§ 111.26 PREMISES SELLING GROCERIES, GASOLINE, AND THE LIKE

PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.230, 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.

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS AND DAYS.

(A) Any premises in the city to which a license for the sale by the drink ("retail liquor by the drink" or "restaurant by the drink") of malt beverages or distilled spirits or wine has been issued is hereby authorized to open for the sale of such beverages on Monday through Saturday, and may remain open for the sale of such beverages until 2:00 a.m. on those days. This includes 12:01 a.m. to 2:00 a.m. on Sunday morning.

(B) Any premises in the city to which a license for the sale by the drink of malt beverages or distilled spirits or wine has been issued may remain open until 2:30 a.m. for the sale of soft drinks and other non-alcoholic purposes.

(C) (1) Package sales are prohibited on Sundays. All alcohol sales are prohibited during the hours the polls are open for primary, regular, school or special election. On-premises consumption after sales ("liquor by the drink

and restaurant by the drink") are prohibited after 2:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, the city may permit the sale of distilled spirits, beer or malt beverages, ("liquor by the drink and restaurant by the drink") on Sundays from 1:00 p.m. until 2:00 a.m. the following Monday at restaurants which:

(a) Have dining facilities with a minimum seating capacity of 100 people at tables; and

(b) Receive at least 70% or more of their gross annual income from the dining facilities from the sale of food.

Restaurants meeting these criteria may apply for a special Sunday "liquor by the drink"/"restaurant by the drink" license for these extended sales.

(2) The city shall have the power and authority to issue a Limited Sunday Retail Drink License upon proper application and the payment of the prescribed fee:

Limited Sunday Retail Drink License, per annum: \$100

(3) The license shall ensure that all patrons shall have vacated the premises by 2:30 a.m. Operators and their employees, engaged in regular and ordinary post closing activities, may be on the premises during the closed hours, provided that the licensee has complied with division (C) (4) below.

(4) If a licensee provides a separate department within his or her licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his or her business as a licensee, and said department is kept locked during the time mentioned above, he or she shall be deemed to have complied with this section.

(5) Should any portion of this section be declared void or unconstitutional, the remaining provision of this section shall remain in full force and effect.

(D) Mandatory responsible beverage service training.

(1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a city-approved responsible beverage training program. For such a program to be approved by the city, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The city will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this section.

(2) All persons required to complete training, under division (D)(1) above, shall complete that training within 60 days of the date on which the person first becomes subject to the training requirement. All person completing the training required by this section shall be re-certified in responsible beverage service training, by a city-approved program not less than once every three years thereafter. All new hires shall have 90 days to complete their training.

(3) Each restaurant licensed by this section must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in divisions (D)(1) and (D)(2) above, on duty.

(4) The manager of the restaurant shall be responsible for compliance with these requirements and shall require all employees certified in responsible beverage service training to wear a picture identification badge while on duty identifying said employee as one licensed to serve alcohol, and shall keep proof of each employee's attendance at training available for inspection by the city ABC Administrator.

(E) Adequate record keeping. Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the 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 City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator or any authorized representative.

(F) Audit requirements. The City Alcoholic Beverage Control Administrator may at his or her discretion required that a licensee make his or her records available to the city for the purpose of conducting an audit to verify compliance with the 70% food sales requirement.

(G) Penalties.

(1) Any person who violates any provision of this section for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(a) For the first offense a fine not to exceed \$500;

(b) For any subsequent offense a fine not to exceed \$500 or confinement in jail not more than six months, or both.

(2) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

('78 Code, § 9-5) (Am. Ord. 06-10, passed 5-10-06; Am. Ord. 06-11, passed 5-10-06) Penalty, see § 111.99

Statutory reference:

Authority to regulate hours of sale, see KRS 244.290 and 244.480

§ 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 ABC 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.

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.

Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, 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:

(A) 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 twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

b. Possess, purchase or attempt to purchase any alcoholic beverages; or

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

(B) 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.

Penalty, see § 111.99

Statutory reference:

Display of state license required, see KRS 243.620, 244.270, and 244.360

§ 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.

Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age, or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage, or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct as defined in KRS 531.010(4).

(B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:

- (1) The nipple of the female breast.
- (2) The female breast below the nipple.
- (3) The genitalia.
- (4) The pubic hair.
- (5) The anus.

(Ord., passed 11-14-79) Penalty, see § 111.99

Cross-reference:

Sale, use or consumption of alcoholic beverages prohibited in

sexually oriented business, see § 116.08

§ 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 ABC 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 ABC 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.

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

As required by KRS 241.160 and as set forth in § 31.37, the office of Alcoholic Beverage Control Administrator, also known as the City ABC Administrator, is hereby established.

§ 111.61 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

§ 111.62 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and

regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason, or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1,000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$100 per day; retail drink liquor licensees: \$25 per day; retail package liquor licensees: \$25 per day; retail beer licensees: \$10 per day; and all remaining licensees: \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC 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 ABC Administrator. The City ABC 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 ABC 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.

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500 or be imprisoned for not more than 30 days, or both.

(B) Any person who violates the distillers license fee provision of § 111.20 shall, upon conviction and in accordance with KRS 243.990(2), be guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(C) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44, or 111.45(A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990(1) and 244.990(1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(D) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990(5), 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 and in accordance with KRS 244.990(5) and (6), 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 guilty of a misdemeanor and 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.