

**CITY OF ELSMERE, KENTUCKY
ORDINANCE NO. 1677-2014**

**AN ORDINANCE AMENDING §§ 111.22, 111.40 and 111.62 OF THE
CITY OF ELSMERE, KENTUCKY CODE OF ORDINANCES AS IT
RELATES TO THE LICENSING, SALE, ADMINISTRATION AND
ENFORCEMENT OF ALCOHOLIC BEVERAGES.**

WHEREAS, the City of Elsmere has identified the need to amend the Elsmere Code of Ordinances to comply with certain provisions of legislation affecting regulation of alcoholic beverages recently enacted by the Kentucky General Assembly; and,

WHEREAS, certain sections of the Code of Ordinances must be amended to be consistent with neighboring jurisdictions by allowing alcohol sales on Election Day.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELSMERE, KENTON COUNTY, KENTUCKY AS FOLLOWS:

SECTION I

That Section 111.22, et. seq. of the Elsmere Code of Ordinances, titled "Application; Issuance" shall be amended as follows:

§ 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 the City Clerk 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 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) Payment of the applicable fee, in cash or by certified or cashier's check, for the city license which is the subject of the application.

§ 111.40 HOURS.

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine, and malt beverages may be sold at retail, whether by the drink or by the package, in the city between the hours of 2:30 a.m. and 6:00 a.m. prevailing time on any day except Sunday. On Sundays, no distilled spirits, wine or malt beverages may be sold at retail by the drink in the city between the hours of 2:30 a.m. and 10:00 a.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 10:00 a.m. ~~In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the city during the hours when any polls are open in the city on any election day.~~

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

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the city Alcoholic Beverage Control Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine, and malt beverages from such premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and ~~except for any~~ are authorized to sell during the hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of wine, spirits or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 10:00 a.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and

2:30 a.m. on Sundays; and between the hours of 10:00 a.m. on Sundays and 2:30 a.m. on Mondays.

§ 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 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 Administrator upon the occurrence of any cause or circumstance which requires revocation of state license 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 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~~ wineries, and brewers, ~~and blenders~~: \$1,000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$400 per day; retail drink liquor licensees: \$50 per day; retail package liquor licensees: \$50 per day; retail beer licensees: \$25 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 Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City Administrator. The City Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

SECTION II

Any and all Ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.

SECTION III

The City Clerk is hereby ordered and directed to cause this ordinance to be published.

SECTION IV

This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

CITY OF ELSMERE, KENTUCKY
A Municipal Corporation of the Fourth Class

Marty Lenhof

MAYOR D. MARTY LENHOF

1st Reading: June 10, 2014

2nd Reading: June 24, 2014

Ayes: 6 Nays: 0

Published: July 4, 2014

ATTEST:

Jessica Chaney

Jessica Chaney, City Clerk

**CITY OF ELSMERE, KENTUCKY
ORDINANCE 1670-2013**

**AN ORDINANCE AMENDING SECTION 111.20, ET SEQ. OF THE
ELSMERE CODE OF ORDINANCES AS IT RELATES TO LICENSE FEES
FOR TRAFFICKING IN ALCOHOLIC BEVERAGES.**

* * *

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELSMERE, KENTON COUNTY, KENTUCKY:

SECTION I

The City of Elsmere, Kentucky hereby determines the need to amend Section 111.20 of the Elsmere Code of Ordinances to comply with certain provisions of legislation affecting regulation of alcoholic beverages recently enacted by the Kentucky General Assembly.

SECTION II

That § 111.20 of the Elsmere Code of Ordinances is hereby amended as follows:

§111.20 CLASSIFICATION OF LICENSES: FEE SCHEDULE.

(A) For the privilege of trafficking in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transaction authorized and permitted thereby and the expiration dates thereof shall be the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be as indicated in the following schedule.

(B) The license year shall be July 1 of each year through June 30 of the following year. Licenses may be issued for less than the full license year upon payment of the proportion of the annual license fee equal to 1/12 times the number of months or fraction of a month remaining in the license year; provided that the minimum license fee shall be one-half of the annual license fee. All licenses shall expire on June 30 of each year, regardless of when the license was issued.

(C) No person shall traffic in alcoholic beverages within the city without both a valid city license and a valid state license therefor:

| <i>Distilled Spirits and Wine Licenses</i> | | | | | |
|--|---------------------------------|---|------------------------|---------------|-------------|
| License Description | Statutory Authorization (KRS §) | Statutory Description of Authorized Business and Transactions (KRS §) | Annual Expiration Date | Fee Per Annum | Renewal Fee |

| | | | | | |
|--|--|--|-------------------------------|-----------------------|--------------------|
| Distillers | 243.030(1) 243.070(2)(a) | 243.120 | June 30 | \$500.00 | \$500.00 |
| Rectifier | 243.030(2) 243.070(2)(b) | 243.130; 243.130 | June 30 | \$3,000.00 | \$3,000.00 |
| Blenders | 243.030(3) | 243.140 | June 30 | \$3,000.00 | \$3,000.00 |
| Wholesalers | 243.030(6) 243.070(2)(c) | 243.160; 243.170 | June 30 | \$3,000.00 | \$3,000.00 |
| Quota Retail Package | 243.030(7) 243.070(2)(d) | 243.240 | June 30 | \$500.00 | \$450.00 |
| Quota Retail Drink | 243.030(8) 243.070(3)(b) | 243.250 | June 30 | \$500.00 | \$450.00 |
| Special Temporary (liquor/wine/beer) | 243.030(16) 243.070(4)(b) | 243.260 | n/a | \$75.00 Per event | |
| Distilled Spirits and Wine Temporary Auction License | 243.070(8) | 243.036 | | \$100.00 Per event | |
| Special Temporary (Wine Only) | 243.030(24) | 243.260 | n/a | \$50.00 Per event | |
| Special Private Club | 243.030(17) | 243.270 | June 30 | \$200.00 | \$200.00 |
| Special Sunday Retail Drink | 243.030(18) 243.070(9) | 243.290 | June 30 | \$300.00 | \$300.00 |
| Nonresident Special Agent | 243.030(19) | 243.340 | June 30 | \$40.00 | \$40.00 |
| Restaurant Wine | 243.030(23) 243.070(10) | 243.250 | June 30 | \$500.00 | \$450.00 |
| Caterer's License | 243.030(23) 243.070(11) | 243.250 243.033 | June 30 | \$500.00 | \$450.00 |
| NQ-1 Retail Drink License (liquor/wine/beer) | 243.070(5) | 243.082 | June 30 | \$1,500.00 | |
| NQ-2 Retail Drink License (liquor/wine/beer) | 243.070(6)(b) | 243.084 | June 30 | \$500.00 | |
| NQ-3 Retail Drink License (liquor/wine/beer) | 243.070(7) | 243.086 | June 30 | \$200.00 | |
| <i>Malt Beverage Licenses</i> | | | | | |
| License Description | Statutory Authorization (KRS §) | Statutory Description of Authorized Business and Transactions (KRS §) | Annual Expiration Date | Fee Per Annum | Renewal Fee |
| Brewers | 243.040(1) | 243.150 | June 30 | \$500.00 | \$500.00 |

| | | | | | |
|---|--------------------------------|---------|---------|----------------------|----------|
| | 243.070(13)(a) | | | | |
| Microbrewery | 243.040(2) 243.070(13)(b) | 243.157 | June 30 | \$500.00 | \$500.00 |
| Distributors | 243.040(3) 243.070(13)(c) | 243.180 | June 30 | \$400.00 | \$400.00 |
| Retailers | 243.040(4) 243.070 | 243.280 | June 30 | \$200.00 | \$150.00 |
| Special Temporary | 243.040(7) | 243.290 | n/a | \$25.00 Per month | n/a |
| Malt Beverage Brew-on-Premises License | 243.070(13)(f) | 243.157 | June 30 | \$100.00 | |
| NQ-4 Retail Malt Beverage Drink License | 243.070(13)(e); 243.070(18) | 243.088 | June 30 | \$200.00 | |
| Nonquota Retail Malt Beverage Package | 243.070(13)(d); 243.070(18) | 243.280 | June 30 | \$200.00 | |

(D) 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). 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).

(E) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

SECTION III

The City Clerk is authorized to issue new City of Elsmere licenses (that equate to current Elsmere ABC licenses held by those licensees) to existing licensees as of Aug 1, 2013 at no additional cost for the license period beginning July 1, 2013 and ending June 30, 2014.

SECTION IV

Any and all Ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.

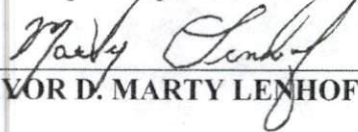
SECTION V

The invalidity of any provision of this ordinance shall not affect the validity of any other provision.

SECTION VI

This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

CITY OF ELSMERE, KENTUCKY
A Municipal Corporation of the Fourth Class


MAYOR D. MARTY LENHOF

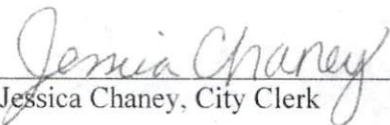
1st Reading: September 10, 2013

2nd Reading: October 8, 2013

Ayes: 6 Nays: 0

Published: October 28, 2013

ATTEST:


Jessica Chaney, 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

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 ALCOHOLIC BEVERAGE CONTROL

Sale of Alcoholic Beverages

- 111.40 Hours
- 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

Permitting minors to consume or possess alcoholic beverages, see § 130.04.

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 241.01 and 243.010 have the meanings indicated therein.

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

ELSMERE - ALCOHOLIC BEVERAGES

- (1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.
- (2) "CITY." The City of Elsmere.
- (3) "CITY ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administration created and established by the city pursuant to § 111.60.
- (4) "CITY LICENSE." A license established and authorized pursuant to the terms hereof.
- (5) "CITY LICENSEE." A person who has been issued a city license pursuant to the terms hereof.
- (6) "KRS." Kentucky Revised Statutes
- (7) "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.
- (8) "PREMISES." The premises described in the city license issued pursuant to the terms hereof and the application therefor.
- (9) "STATE." The Commonwealth of Kentucky.
- (10) "STATE LICENSE." A license authorized by KRS 243.030 to 243.680.
- (11) "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.

(A) For the privilege of trafficking in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transaction authorized and permitted thereby and the expiration dates thereof shall be the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) The license year shall be November 1 of each year through October 31 of the following year. Licenses may be issued for less than

ELSMERE - ALCOHOLIC BEVERAGES

the full license year upon payment of the proportion of the annual license fee equal to 1/12 times the number of months or fraction of a month remaining in the license year; provided, that the minimum license fee shall be one-half the annual license fee. All licenses shall expire on October 31 of each year, regardless of when the license was issued.

(C) No person shall traffic in alcoholic beverages within the city without both a valid city license and a valid state license therefor:

| <u>License Description</u> | <u>Statutory Authorization (KRS §)</u> | <u>Statutory Description of Authorized Business and Transactions (KRS §)</u> | <u>Annual Expiration Date (KRS § 243.090)</u> | <u>Fee (Per Annum)</u> |
|--|--|--|---|--|
| <u>Distilled Spirits and Wine Licenses</u> | | | | |
| Distillers | 243.030 (1), 243.070 | 243.120 243.130 | June 30 | \$ 500 |
| Rectifier | 243.030 (2) | 243.120 243.130 | June 30 | 3000 |
| Blenders | 243.030 (3) | 243.140 | June 30 | 3000 |
| Wholesaler | 243.030 (6) | 243.160 243.170 | June 30 | 3000 |
| Retail package | 243.030 (7) | 243.240 | June 30 | 1000 |
| Retail drink | 243.030 (8) | 243.250 | June 30 | 1000 |
| Special temporary | 243.030 (16) | 243.260 | N/A | 1/6 of retail package license fee (above), per month |
| Special private club | 243.030 (17) | 243.270 | June 30 | 300 |
| Special Sunday retail drink | 243.030 (18), 243.070 | 243.290 | June 30 | 300 |
| Nonresident special agent | 243.030 (19) | 243.340 | June 30 | 40 |
| <u>Malt Beverage Licenses</u> | | | | |
| Brewers | 243.040 (1), 243.070 | 243.150 | June 30 | 500 |
| Microbrewery | 243.040 (2) | 243.157 | June 30 | 500 |
| Distributors | 243.040 (3) | 243.180 | June 30 | 400 |
| Retailers (new applicants) | 243.040 (4), 243.070 | 243.280 | June 30 | 200 |
| Renewal | 243.040 (4) | 243.280 | June 30 | 150 |
| Special temporary | 243.040 (7) | 243.290 | NA | 25 per month |
| Penalty, see § 111.99 | | | | |

ELSMERE - ALCOHOLIC BEVERAGES

§ 111.21 FORM, CONTENT OF CITY LICENSE.

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

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

ELSMERE - ALCOHOLIC BEVERAGES

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

§ 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 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 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 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 Administrator shall consider in the exercise of his 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 license 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 Administrator; and the transfer of the state license to which the city license corresponds is approved by

ELSMERE - ALCOHOLIC BEVERAGES

the state. A transfer fee of ten dollars (\$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 the 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.

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine, and malt beverages may be sold at retail, whether by the drink or by the package, in the city between the hours of 2:30 a.m. and 6:00 a.m. prevailing time on any day except Sunday. On Sundays, no distilled spirits, wine or malt beverages may be sold at retail by the drink in the city between the hours of 2:30 a.m. and 1:00 p.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the city during the hours when any polls are open in the city on any election day.

(B) During the restricted hours set forth in division (A), no person who has a valid city license for the sale of distilled spirits or wine or malt beverages at retail shall cause, cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times all persons who have such city licenses shall cause the licensed premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such city licenses or any supplements thereto as officers, agents, or employees of the person to whom such city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the license holder within thirty (30) minutes prior to any such times

ELSMERE - ALCOHOLIC BEVERAGES

may remain upon the premises for a period not to exceed thirty (30) minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the city Alcoholic Beverage Control Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine, and malt beverages from such premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of wine, spirits or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the city, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

(Ord. 1525-2004, passed 6-8-04; Am. Ord. 1553-2005, passed 11-8-05)
Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

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

(B) A city license shall comply fully with all of the provisions hereof and all of the rules and regulations of the City Administrator

ELSMERE - ALCOHOLIC BEVERAGES

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 license 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 license 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

ELSMERE - ALCOHOLIC BEVERAGES

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 license 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 beverage 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 than 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.

Penalty, see § 111.99

Cross-reference:

Nude performances prohibited, see §§ 115.20-115.22

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

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

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

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

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

ELSMERE - ALCOHOLIC BEVERAGES

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) Creation; powers and duties. There is hereby created the office of City Alcoholic Beverage Control Administrator pursuant to the authority of KRS 241.160. The powers and duties of the City Alcoholic Beverage Control Administrator shall be the same with respect to city liquor licenses and regulations as the State Alcoholic Beverage Control Board created by KRS 241.030 with respect to state licenses and regulations, except that no regulation adopted by the city may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the State Alcoholic Beverage Control Board. No regulation of the Alcoholic Beverage Control Administrator shall become effective until it is approved by the State Board. (KRS 241.190)

(B) Oath. The City Alcoholic Beverage Control Administrator before entering upon his duties, shall take the oath prescribed in Section 228 of the state constitution. (KRS 241.180 (1))

(C) Bond. The City Alcoholic Beverage Control Administrator shall before entering upon his duties execute a bond with a good corporate surety in the penal sum of not less than \$1,000. The cost of this bond shall be borne by the city. (KRS 241.180(1), (3))

(D) Compensation. The annual compensation of the City Alcoholic Beverage Control Administrator shall be that which is set forth by the City Council from time to time in accordance with § 31.02.

(E) Appointment. In accordance with KRS 241.170(2), the City Alcoholic Beverage Control Administrator shall be appointed by the Mayor.
('76 code, § 10.09)

§ 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 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 Administrator upon the occurrence of any cause or circumstance which requires revocation of state license 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 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: \$400 per day; retail drink liquor licensees: \$50 per day; retail package liquor licensees: \$50 per day; retail beer licensees: \$25 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 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 Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City Administrator. The City Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter, upon conviction thereof in a court of competent jurisdiction, shall be guilty of a misdemeanor and sentenced to pay a fine for each offense of no more than \$500, or sentenced to imprisonment for no more than 30 days, or any combination of such fines and imprisonment.

(B) Any person who violates the distillers license fee provision of § 111.20 shall be, upon conviction and in accordance with KRS 243.990 (2), guilty of a misdemeanor and 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 guilty of a misdemeanor and 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 guilty of a Class D felony

ELSMERE - ALCOHOLIC BEVERAGES

and 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), upon conviction and in accordance with KRS 243.990(1) and 244.990(1), shall be guilty of a misdemeanor and 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, upon conviction and in accordance with KRS 244.990(5), shall be guilty of a misdemeanor and be fined not less than \$10 nor more than \$100.

(E) Any person who violates any provision of § 111.45(B) 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 be fined not less than \$50 nor more than \$500.

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
- 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:

Permitting minors to consume or possess alcoholic beverages, see § 130.04.

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 241.01 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." The City of Elsmere.

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

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

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

(6) "KRS." Kentucky Revised Statutes.

(7) "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.

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

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

(10) "STATE LICENSE." A license authorized by KRS 243.030 to 243.680.

(11) "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.

(A) For the privilege of trafficking in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) The license year shall be July 1 of each year through June 30 of the following year. Licenses may be issued for less than the

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full license year upon payment of the proportion of the annual license fee equal to 1/12 times the number of months or fraction of a month remaining in the license year; provided, that the minimum license fee shall be one-half the annual license fee. All licenses shall expire on June 30 of each year, regardless of when the license was issued.

(C) No person shall traffic in alcoholic beverages within the city without both a valid city license and a valid state license therefor:

| License Description | Statutory Authorization (KRS §) | Statutory Description of Authorized Business and Transactions (KRS §) | Annual Expiration Date (KRS § 243.090) |
|--|---------------------------------|---|--|
| Distilled Spirits and Wine Licenses | | | |
| Distillers | 243.030 (1), 243.070 | 243.120 243.130 | June 30 |
| Rectifier | 243.030 (2) | 243.120 243.130 | June 30 |
| Blenders | 243.030 (3) | 243.140 | June 30 |
| Wholesaler | 243.030 (6) | 243.160 243.170 | June 30 |
| Retail package | 243.030 (7) | 243.240 | June 30 |
| Retail drink | 243.030 (8) | 243.250 | June 30 |
| Special temporary | 243.030 (16) | 243.260 | NA |
| Special private club | 243.030 (17) | 243.270 | June 30 |
| Special Sunday retail drink | 243.030 (18), 243.070 | 243.290 | June 30 |
| Nonresident special agent | 243.030 (19) | 243.340 | June 30 |
| Malt Beverage Licenses | | | |
| Brewers | 243.040 (1), 243.070 | 243.150 | June 30 |
| Microbrewery | 243.040 (2) | 243.157 | June 30 |
| Distributors | 243.040 (3) | 243.190 | June 30 |
| Retailers (new applicants) | 243.040 (4), 243.070 | 243.280 | June 30 |
| Renewal | 243.040 (4) | 243.280 | June 30 |
| Special temporary | 243.040 (7) | 243.290 | NA |

Penalty, see § 111.99

§ 111.21 FORM, CONTENT OF CITY LICENSE.

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

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(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 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 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 Administrator.

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

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

§ 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 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 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 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 Administrator shall consider in the exercise of his 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 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.

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the city are hereby established to be the hours after 6:00 a.m. and before 2:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 2:30 a.m. prevailing time on any Sunday. However, no distilled spirits or wine or malt beverages shall be sold at retail in the city during the hours the polls are open in the city on any election day.

(B) During the hours before 6:00 a.m. and after 2:30 a.m. prevailing time on any day except Sunday, and the hours after 2:30 a.m. and before 1:00 p.m. prevailing time on any Sunday, and the hours when any polls are open in the city on any election day, no person who has a valid city license for the sale of distilled spirits or wine or malt beverages at retail shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such city licenses shall cause the licensed premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such city licenses or any supplements thereto as officers, agents, or employees of the person to whom such city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the City Administrator as being capable of being locked, closed off, and

separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine, and malt beverages from such premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

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

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

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.

Penalty, see § 111.99

Cross-reference:

Nude performances prohibited, see §§ 115.20-115.22

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

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

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

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

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

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) Creation; powers and duties. There is hereby created the

office of City Alcoholic Beverage Control Administrator pursuant to the authority of KRS 241.160. The powers and duties of the City Alcoholic Beverage Control Administrator shall be the same with respect to city liquor licenses and regulations as the State Alcoholic Beverage Control Board created by KRS 241.030 with respect to state licenses and regulations, except that no regulation adopted by the city may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the State Alcoholic Beverage Control Board. No regulation of the Alcoholic Beverage Control Administrator shall become effective until it is approved by the State Board. (KRS 241.190)

(B) Oath. The City Alcoholic Beverage Control Administrator before entering upon his duties, shall take the oath prescribed in Section 228 of the state constitution. (KRS 241.180(1))

(C) Bond. The City Alcoholic Beverage Control Administrator shall before entering upon his duties execute a bond with a good corporate surety in the penal sum of not less than \$1,000. The cost of this bond shall be borne by the city. (KRS 241.180(1), (3))

(D) Compensation. The annual compensation of the City Alcoholic Beverage Control Administrator shall be that which is set forth by the City Council from time to time in accordance with § 31.02.

(E) Appointment. In accordance with KRS 241.170(2), the City Alcoholic Beverage Control Administrator shall be appointed by the Mayor.
('76 Code, § 10.09)

§ 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 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 Administrator upon the occurrence of any cause or circumstance which requires revocation of state license 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 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: \$400 per day; retail drink liquor licensees: \$50 per day; retail package liquor licensees: \$50 per day; retail beer licensees: \$25 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 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 Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City Administrator. The City Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

§ 111.99 PENALTY. *Appeal*

(A) Any person who violates any of the provisions of this chapter, upon conviction thereof in a court of competent jurisdiction, shall be guilty of a misdemeanor and sentenced to pay a fine for each offense of no more than \$500, or sentenced to imprisonment for no more than 30 days, or any combination of such fines and imprisonment.

(B) Any person who violates the distillers license fee provision of § 111.20 shall be, upon conviction and in accordance with KRS 243.990 (2), guilty of a misdemeanor and 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 guilty of a misdemeanor and 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), upon conviction and in accordance with KRS 243.990(1) and 244.990(1), shall be guilty of a misdemeanor and 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, upon conviction and in accordance with KRS 244.990(5), shall be guilty of a misdemeanor and be fined not less than \$10 nor more than \$100.

(E) Any person who violates any provision of § 111.45(B) 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 be fined not less than \$50 nor more than \$500.