

ORDINANCE RELATING TO ALCOHOLIC BEVERAGES

SUMMARY: AN ORDINANCE ADOPTING WITH AMENDMENTS FOUND HEREIN, CHAPTER 4, *ALCOHOLIC BEVERAGES*, ARTICLE II, *LICENSES*, SECTION 4-35 THROUGH SECTION 4-46 OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

WHEREAS, the City of Henderson deems it necessary and appropriate to amend its existing ordinance pertaining to alcoholic license fees so as to incorporate the change passed in Senate Bill 13 by the Kentucky General Assembly, as codified in KRS Chapters 241 through 244.

Sec. 4-35. - Fees.

- (a) No license under the provisions of this article shall be issued until there has been paid to the city the license fee herein provided. For the privilege of causing, permitting and engaging in the actions, business and transaction authorized thereby in regard to traffic 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 KRS 243.070.
- (b) The following kinds of alcoholic beverage licenses ~~and no others~~ may be issued ~~upon approval of the administrator, and the fees payable, therefore to~~ by the city ~~and the fees for each~~ shall be as follows:
- (1) Distiller's license, per annum .....\$300.00
  - (2) Rectifier's license, per annum .....100.00
  - (3) Blender's license, per annum .....100.00
  - (4) Wholesale liquor dealer's license, per annum .....500.00
  - (5) Retail package license, per annum .....300.00
  - (6) Retail drink license, per annum .....300.00
  - (7) Brewer's license, per annum .....350.00
  - (8) Wholesale beer distributor's license, per annum .....300.00
  - (9) Retail beer license, per annum .....100.00
  - (10) Special private club license .....150.00
  - (11) Special temporary license .....per month or part of month, 1/6 of the  
annual fee set forth herein
  - (12) Retail package license held in connection with retail drink and/or retail beer license — combined license fee, per annum .....600.00
  - (13) Restaurant wine license:
    - a. New applicant .....200.00

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FIRST READING: 11/12/2013  
SECOND READING: 11/26/2013

- b. Renewal .....100.00
- (14) Restaurant beer license:
  - a. New applicant .....200.00
  - b. Renewal .....100.00
- (15) License for Sunday sales of distilled spirits and wine and malt beverages by the drink in qualified hotels, motels and restaurants, per annum .....300.00
- 1. Distiller's license, per annum .....\$ 315.00
- 2. Rectifier's license, per annum . . . \$ 105.00
- 3. Wholesaler's distilled spirits and wine license, per annum.....\$525.00
- 4. Quota retail package license, per annum.....\$315.00
- 5. Quota retail drink license per annum.....\$315.00
- 6. Special temporary license, per event.....\$ 50.00
- 7. Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$1,000.00
- 8. Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$400.00
- 9. Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$250.00
- 10. Distilled spirits and wine special temporary auction license, per event...\$200.00
- 11. Special Sunday retail drink license, per annum.....\$300.00
- 12. Extended hours supplemental license, per annum.....\$ No Charge
- 13. Caterer's license, per annum.....\$300.00

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- 14. Bottling house or bottling house storage license, per annum.....\$500.00

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- 15. Malt beverage licenses as follows:
  - a. Brewer's license, per annum.....\$365.00
  - b. Microbrewery license, per annum...\$365.00

c. Malt beverage distributor's license, per annum...\$400.00

d. Nonquota retail malt beverage package license, per  
annum.....\$105.00

e. Nonquota type 4 retail malt beverage drink license, per annum... \$105.00

f. Malt beverage brew-on-premises license, per annum.....\$100.00

16. 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.

17. 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).

(c) All license fees from licenses issued under this article shall be collected and paid into the general fund of the city for use for the general operating expenses of the city.

(d) When any applicant applies for a license under the provisions of this article to commence business after the ~~first of July~~ thirty-first (31<sup>st</sup>) of January of any year, such applicant shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month within the license is granted; provided, however, that no fractional fee shall be permitted where the applicant has actually been doing business under a similar license during the last month of the preceding license period.

(e) If any license issued hereto shall be revoked or cancelled for any reason, the licensee shall not be entitled to a refund of any portion of the license fee.

(f) Upon adoption of this ordinance, the ABC administrator shall issue updated licenses to all current license holders, at no additional charge. These updated licenses shall expire on June 30, 2014. Upon application by these current license holders for their 2014 licenses, the ABC administrator, within his/her discretion, will renew licenses on July 1, 2014, at a prorated fee. These renewal licenses will expire on January 31, 2015. All other license applicants will be issued as provided by Sec. 4-45.

**State law reference—** Authority for these fees, KRS 243.070.

## Chapter 4 ALCOHOLIC BEVERAGES\*

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**\*Cross references:** Possession of alcoholic beverages in parks prohibited, § 17-2.

**State law references:** Alcoholic beverages, KRS Chs. 241--244.

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**ARTICLE I. IN GENERAL****Sec. 4-1. Definitions.**

The words and phrases used in this chapter shall have the same meaning as defined in KRS Chapters 241, 243 and 244. As used herein the term "hotels" shall include motels.

(Code 1968, § 113.04)

**Cross references:** Definitions and rules of construction generally, § 1-2.

**Sec. 4-2. Scope.**

The provisions of this chapter shall be applicable to the sale and traffic in alcoholic beverages, unless specifically provided to the contrary.

(Code 1968, § 113.02)

**Sec. 4-3. Adoption of state alcoholic beverage laws.**

The provisions of the Alcoholic Beverage Control Law of the state, including KRS Chapters 241, 243 and 244 and the regulations of the state alcoholic beverage control board, as the same may from time to time be amended, are hereby adopted as part of the alcoholic beverage control law of the city, except as otherwise lawfully provided herein.

(Code 1968, § 113.03)

**Sec. 4-4. City alcoholic beverage control administrator.**

(a) Under authority of KRS 241.160 there is hereby created the office of city alcoholic beverage administrator for the city (hereinafter in this chapter referred to as the administrator), who shall have the duties and functions prescribed by KRS Chapter 241. The administrator may or may not be an officer or employee of the city, and shall be appointed by the city manager. He shall also have such further duties and functions as are prescribed in this chapter.

(b) The administrator, before entering upon his duties as such, shall take the oath as prescribed by Section 228 of the Constitution and shall execute a bond with a good and solvent, corporate surety in the sum of not less than one thousand dollars (\$1,000.00), faithfully to perform the duties of his office pursuant to the provisions of KRS 62.060 et seq.

(Code 1968, §§ 113.05, 113.06)

**Cross references:** Administration, Ch. 2.

**Sec. 4-5. Compliance with alcoholic beverage control laws mandatory.**

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and

regulations of the state applicable thereto.

(Code 1968, § 113.07)

#### **Sec. 4-6. Nonexclusive application.**

Nothing contained in this chapter shall excuse or relieve any person from the restrictions, requirements and penalties of any other ordinances of the city, or of any statutes or regulations of the state relating to violations pertaining to alcoholic beverages.

(Code 1968, § 113.08)

#### **Sec. 4-7. Restrictions on price advertising.**

No sign of any kind, printed or electric, advertising the price of alcoholic beverages shall be displayed so as to be visible from the exterior of any premises licensed for the sale of alcoholic beverages at retail; provided, however, that any licensee may place in the window of his place of business price cards not larger than two and one-half (2 1/2) inches by three (3) inches in size, with the price thereon at which he offers alcoholic beverages for sale.

(Code 1968, § 113.09)

**State law references:** Advertising to comply with regulations of state alcoholic beverage control board, KRS 244.130; advertising brands by retailers prohibited, KRS 244.140; adoption of labeling and advertising regulations of bureau of internal revenue for malt beverages, KRS 244.510; advertisement or label of malt beverages not to refer to alcoholic content, KRS 244.520; signs on malt beverage premises, KRS 244.530; advertising malt beverages near school or church prohibited, KRS 244.540.

#### **Sec. 4-8. Advertising by handbills, circulars and cards prohibited.**

No licensee under this chapter shall distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

(Code 1968, § 113.10)

#### **Sec. 4-9. Prizes prohibited.**

No licensee under this chapter shall give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

(Code 1968, § 113.11)

#### **Sec. 4-10. Books and records.**

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the state alcoholic beverage control board. Such books and records shall be available at all reasonable times for inspection by the administrator.

(Code 1968, § 113.12)

**State law references:** License to keep records, KRS 244.150.

**Sec. 4-11. Dancing prohibited.**

No licensee under this chapter, except a hotel or private club, shall invite or permit the patrons of the place of business of such licensee to dance in any room which is equipped to sell, give away or dispense alcoholic beverages from a bar.

(Code 1968, § 113.13)

**Sec. 4-12. Prohibiting intoxicated persons on licensed premises.**

No licensee under this chapter shall permit any person to become drunk or intoxicated on the licensed premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(Code 1968, § 113.14)

**Sec. 4-13. Opening of and drinking contents of containers on licensed premises.**

No licensee to sell alcoholic beverages at retail under this chapter shall permit any person, other than employees of the licensee, to open any container of alcoholic beverages, and no container of alcoholic beverages shall be opened nor its contents consumed on the licensed premises, unless the licensee holds a retail drink license.

(Code 1968, § 113.15)

**Sec. 4-14. Beverages found outside locked compartment when sale prohibited.**

If any alcoholic beverages are found on the outside of the locked or closed-off compartment of any licensed premises at which a license is held to sell alcoholic beverages at retail, at any hours during which the licensee is prohibited by law from selling such alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept on the outside of the locked or closed-off compartment for the purpose of sale in violation of this chapter and of the state alcoholic beverage control laws, and such shall be grounds for revocation or suspension of the license, and in addition to other penalties provided for violations of this section, the administrator shall be and he is hereby authorized to confiscate such alcoholic beverages.

(Code 1968, § 113.16)

**Sec. 4-15. Hours of sale and delivery; Sunday sales in qualified establishments.**

(a) No premises for which there has been granted a license for the sale of alcoholic beverages within the corporate limits of the city, shall be permitted to remain open for any purpose between 2:00 a.m. and 6:00 a.m., prevailing time, of any week-day.

(b) Except as provided in subsection (d) below, no premises described in subsection (a) shall be permitted to remain open for any purpose at any time during the hours from 2:00 a.m. Sunday until 6:00 a.m. Monday, prevailing time, nor during the hours during which the polls are open on any legal, primary, school or special election day.

(c) However, if a licensee provides for a separate compartment within his licensed premises capable of being closed off within which is kept all stocks of alcoholic beverages and all fixtures

and appurtenances connected with his business as such licensee, and the compartment is kept locked during the time mentioned above, the above provisions of this section shall not apply.

(d) The sale of distilled spirits and wine by the drink, and malt beverages by individual container, shall be permitted on Sundays from 1:00 p.m. until 11:00 p.m., and on Sundays that fall on December 31 from 1:00 p.m. until 2:00 a.m. the following Monday, by hotels, motels and restaurants which are licensed for the retail sale of malt beverages and distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of their gross annual income from their dining facilities by the sale of food.

(Code 1968, § 113.17; Ord. No. 4-78, § 1, 3-14-78; Ord. No. 24-05, 11-8-05; Ord. No. 26-06, 11-28-06)

**State law references:** Time when retail premises selling distilled spirits and wine are to be closed, KRS 244.290; time when delivery and sale of malt beverages are prohibited, KRS 244.480.

Secs. 4-16--4-31. Reserved.



**ARTICLE II. LICENSES\***

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**\*Cross references:** Occupational licenses, § 21-31 et seq.

**State law references:** Licenses to traffic in alcoholic beverages, KRS 243.020 et seq.; city licenses, KRS 243.070.

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**Sec. 4-32. Required.**

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided for in this article.

(Code 1968, § 113.07)

**Sec. 4-33. Application.**

Any person desiring a license to sell, deal in, traffic or possess for sale, alcoholic beverages as provided for by this article shall make a written application to the administrator, stating the street and number of the premises where he expects to carry on the business sought to be licensed. No license shall be issued to any person or to any premises, or to any part of a building other than that approved by the administrator in such license application.

(Code 1968, § 113.30)

**Sec. 4-34. Examination of applicants under oath.**

The administrator shall have the power to examine or cause to be examined under oath any applicant for a license under the provisions of this article, and to examine or cause to be examined the books and records of such applicant; to hear testimony or to take proof upon the fitness of the applicant for a license or the fitness of his proposed place of business.

(Code 1968, § 113.31)

**Sec. 4-35. Fees.**

(a) No license under the provisions of this article shall be issued until there has been paid to the city the license fee herein provided.

(b) The following kinds of alcoholic beverage licenses and no others may be issued upon approval of the administrator, and the fees payable therefor to the city shall be as follows:

- (1) Distiller's license, per annum . . . \$300.00
- (2) Rectifier's license, per annum . . . 100.00
- (3) Blender's license, per annum . . . 100.00

- (4) Wholesale liquor dealer's license, per annum . . . 500.00
- (5) Retail package license, per annum . . . 300.00
- (6) Retail drink license, per annum . . . 300.00
- (7) Brewer's license, per annum . . . 350.00
- (8) Wholesale beer distributor's license, per annum . . . 300.00
- (9) Retail beer license, per annum . . . 100.00
- (10) Special private club license . . . 150.00
- (11) Special temporary license . . . per month

or part of month, 1/6 of the  
annual fee set forth herein

(12) Retail package license held in connection with retail drink and/or retail beer license--combined license fee, per annum . . . 600.00

(13) Restaurant wine license:

- a. New applicant . . . 200.00
- b. Renewal . . . 100.00

(14) Restaurant beer license:

- a. New applicant . . . 200.00
- b. Renewal . . . 100.00

(15) License for Sunday sales of distilled spirits and wine and malt beverages by the drink in qualified hotels, motels and restaurants, per annum . . . 300.00

(c) All license fees from licenses issued under this article shall be collected and paid into the general fund of the city for use for the general operating expenses of the city.

(d) When any applicant applies for a license under the provisions of this article to commence business after the first of July of any year, such applicant shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month within the license is granted; provided, however, that no fractional fee shall be permitted where the applicant has actually been doing business under a similar license during the last month of the preceding license period.

(e) If any license issued hereto shall be revoked or cancelled for any reason, the licensee shall not be entitled to a refund of any portion of the license fee.

(Code 1968, §§ 113.41--113.44, 113.51; Ord. No. 8-72, 3-29-72; Ord. No. 25-78, 8-8-78; Ord. No. 9-82, 5-13-82; Ord. No. 27-84, 9-11-84; Ord. No. 24-05, 11-8-05)

**State law references:** Authority for these fees, KRS 243.070.

#### **Sec. 4-36. Authority of administrator to reject or grant.**

The administrator shall be the sole judge of the fitness of any applicant to be granted any of the licenses provided for in this article and of the fitness of the location where any applicant may propose to engage in the business authorized by any of the licenses provided for herein. He shall have the power to authorize any of the licenses provided for herein to such person applying therefor, or shall have the

right to reject the application and decline to authorize the issuance of the license. The administrator will authorize issuance of the license provided for in this article only to persons who meet the criteria for issuance of state licenses under KRS 243.100 and KRS 243.450.

(Code 1968, § 113.32)

**State law references:** Persons who may not be licensed, KRS 243.100; causes for refusal of license, KRS 243.450; issuance of city licenses, KRS 243.610.

**Sec. 4-37. Approval of premises selling by the drink by health department required.**

The administrator shall not authorize a license for the retail sale of alcoholic beverages by the drink, until the applicant and his place of business have been approved by the county health department.

(Code 1968, § 113.33)

**Sec. 4-38. License not to issue where principal trade with school children.**

No license shall be issued to any applicant for the sale at retail of any alcoholic beverage at any business premises where a majority of the business conducted therein is with school children who are regularly attending private, public or parochial schools.

(Code 1968, § 113.34)

**Sec. 4-39. License not to issue where dancing permitted.**

No license to sell alcoholic beverage for consumption on the licensed premises shall be granted to any applicant, except a hotel or private club, who sells, gives away or dispenses, or is equipped to sell, give away or dispense alcoholic beverages from a bar in any room where the patrons of the place of business owned, operated or conducted by the applicant are invited or permitted to dance; nor to any applicant except a hotel or private club who maintains a bar in any room where the patrons of the place of business, owned, operated or conducted by the applicant are invited or permitted to dance.

(Code 1968, § 113.35)

**Sec. 4-40. Inspection of licensed premises; authority of administrator.**

All applicants for a license under the provisions of this article shall, at the time of making an application for a license, make and execute a permit signed by the applicant and providing that the administrator may inspect and search the licensed premises at any time. Such permit for inspection and search shall be attached to and filed with the application and shall be considered a part thereof.

(Code 1968, § 113.36)

**Sec. 4-41. Conditions of license granted.**

All licenses granted under this article shall be granted subject to the following conditions, as well as all other conditions of other ordinances, regulations, statutes, or laws of the city or state applicable thereto:

- (1) Every hotel and private club that procures a license under this article shall be

entitled to serve alcoholic beverages as permitted by such license in a separate room or rooms at banquets or dinners or where meals are served; however, no hotel or private club shall maintain or operate, or permit to be operated more than one bar or room where alcoholic beverages are dispensed for sale and which is opened to the general public, without first obtaining a separate license for each bar or room which is opened to the general public.

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

(3) No gambling or game of chance shall be permitted in any form upon such licensed premises. Dice, slot machines or any devices of chance are prohibited and shall not be kept on such premises.

(4) No radio receiving apparatus shall be kept or maintained on the licensed premises which can be adjusted so as to receive police messages broadcast from the police radio station as it now or may hereafter be operated. In addition to the other penalties provided herein, for violation of this section the chief of police or the administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(5) It shall be unlawful for any licensee under this article to keep or sell, or permit to be kept or sold or used on the licensed premises any controlled substances.

(Code 1968, § 113.37)

#### **Sec. 4-42. Posting of license mandatory.**

Every license issued pursuant to this article shall be posted and shall remain in a conspicuous place in the room where the business is carried on. Should any license be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued at the direction of the administrator on being satisfied of the facts. A fee of one dollar (\$1.00) shall be charged for such duplicate.

(Code 1968, § 113.45)

**State law references:** Posting of licenses, KRS 243.620.

#### **Sec. 4-43. Transfer.**

(a) No license to sell alcoholic beverage shall be transferable either as to the licensee or the licensed premises except as provided in the alcoholic beverage control laws of the state, and not then until approval by the administrator and payment to the city of a transfer fee of five dollars (\$5.00).

(b) No assignment of any license issued under this article shall be made except by order of any court of competent jurisdiction and with the approval of the administrator.

(Code 1968, §§ 113.46, 113.47)

**State law references:** Transfer of license without authorization prohibited, KRS 243.630; transfer of license to other premises, KRS 243.650.

#### **Sec. 4-44. Limitation on number of licenses.**

(a) *Wholesale malt beverages.* No wholesale beer or malt beverage license for the sale, handling or distribution at wholesale of beer or malt beverages shall be sold or issued by the city

or any agency thereof if, on account of such sale or issuance, the number of holders of such wholesale licenses would exceed eight (8).

(b) *Retail malt beverages.*

(1) No retail beer or malt beverage license for the sale, handling or distribution at retail of beer or malt beverages shall be sold or issued by the city or any agency thereof if, on account of such sale or issuance the number of holders of such retail licenses would exceed fifty-five (55).

(2) Notwithstanding anything contained in subsection (b)(1), a beer license may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty (50) percent or more of its gross annual income from food and has a minimum seating capacity of fifty (50) people at tables.

(3) In computing the number of licenses for the purpose of subsection (b)(1), the following shall be excluded:

- a. Fraternal or social organizations and private clubs;
- b. Hotels and motels which hold retail beer licenses pursuant to section 4-35(b) (9);
- c. Establishments which possess a beer license pursuant to section 4-35(b)(14);

(4) The limitations as set forth herein as to the number of licenses shall have no force and effect as to licenses issued prior to January 23, 1979.

(5) This subsection (b) shall not be construed to prohibit or prevent the continuation, renewal of or reissuance of any retail beer license existing prior to January 23, 1979, but in the event any such license is revoked or surrendered the city alcoholic beverage administrator shall not issue any new licenses in the city to exceed the number fixed by subsection (b)(1).

(c) *Lapse upon failure to renew.* The present holders of such wholesale and retail malt beverage licenses and their authorized transferees shall be entitled to renewals thereof in event they shall make due application therefor, and provided they shall meet all other federal, state and municipal requirements; provided, however, that should any holder of such license allow the same to lapse or should such license be revoked or denied for any legal reason, then the same shall not be renewed if to do so would cause the number of holders thereof to be in excess of the numbers set forth in this section. No license will be renewed until the administrator approves of the renewal in writing.

(Code 1968, §§ 113.48--113.50; Ord. No. 8-72, 3-29-72; Ord. No. 31-73, 6-26-73; Ord. No. 2-76, 1-27-76; Ord. No. 25-78, 8-8-78; Ord. No. 3-79, § 1, 1-23-79)

#### **Sec. 4-45. Revocation or suspension.**

(a) Whenever any licensee shall violate any of the provisions of this article or any other ordinance relating to the subject of alcoholic beverage control, or any of the rules and regulations of the administrator, or any of the provisions of the alcoholic beverage control law of the state, or any amendments or supplements thereto, or any of the rules and regulations adopted by the state alcoholic beverage control board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or upon conviction by a court of competent jurisdiction of any such violation, the administrator is hereby authorized and empowered to order the revocation or suspension of any licenses issued under this article. For purpose of this section, a violation by any duly authorized agent or employee of a licensee shall constitute a violation by the licensee.

(b) Any revocation of the authorization of the state of any licensee to engage in the sale or traffic of alcoholic beverages shall automatically revoke the licenses issued therefor by the city.

(Code 1968, §§ 113.38, 113.39)

**State law references:** Suspension of licenses, KRS 243.480; causes for which licenses may be revoked, KRS 243.490; causes for which licenses must be revoked or suspended, KRS 243.500.

**Sec. 4-46. Expiration date.**

The licenses permitted under the provisions of this article shall be issued for a period of not more than one year, and every license issued hereunder shall expire on the thirtieth day of June of each year.

(Code 1968, § 113.40)

**State law references:** Similar provisions, KRS 243.090.

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ORDINANCE RELATING TO ALCOHOLIC BEVERAGES

**SUMMARY:** AN ORDINANCE AMENDING SEC. 4-15, HOURS OF SALE AND DELIVERY, OF ARTICLE I. IN GENERAL, OF CHAPTER 4, ALCOHOLIC BEVERAGES, OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON, BY PERMITTING THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK ON SUNDAYS BETWEEN 1:00 P.M. AND 11:00 P.M. IN HOTELS, MOTELS AND RESTAURANTS WITH MINIMUM SEATING CAPACITIES OF ONE HUNDRED (100) PEOPLE AT TABLES AND THAT RECEIVE AT LEAST FIFTY PERCENT (50%) OR MORE OF GROSS ANNUAL INCOME FROM THE SALE OF FOOD PURSUANT TO KRS 244.290(4) AND KRS 244.480; AND ESTABLISHING LICENSE AND FEE THEREFOR

WHEREAS, under the provisions of KRS 244.290(4) and KRS 244.480, the City may permit Sunday sales by the drink of distilled spirits, wine and malt beverages at hotels, motels and restaurants that have dining facilities with a seating capacity of one hundred (100) people at tables, and receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, that Sec. 4-15, *Hours of Sale and Delivery*, of Article I. *In General*, of Chapter 4, *Alcoholic Beverages*, of the City's Code of Ordinances, is hereby amended as follows:

**Sec. 4-15. Hours of sale and delivery; Sunday sales in qualified establishments.**

(a) No premises for which there has been granted a license for the sale of alcoholic beverages within the corporate limits of the city, shall be permitted to remain open for any purpose between 2:00 a.m. and 6:00 a.m. prevailing time, of any week-day.

(b) Except as provided in subsection (d) below, ~~No~~ premises described in subsection (a) shall be permitted to remain open for any purpose at any time during the hours from 2:00 a.m. Sunday until 6:00 a.m. Monday, prevailing time, nor during the hours during which the polls are open on any legal, primary, school or special election day.

(c) However, if a licensee provides for a separate compartment within his licensed premises capable of being closed off within which is kept all stocks of alcoholic beverages and all fixtures and appurtenances connected with his business as such licensee, and the compartment is kept locked during the time mentioned above, the above provisions of this section shall not apply.

(d) The sale of distilled spirits and wine by the drink, and malt beverages by individual container, shall be permitted on Sundays from 1:00 p.m. until 11:00 p.m., by hotels, motels and restaurants which are licensed for the retail sale of malt beverages and distilled spirits and wine by the drink, and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of their gross annual income from their dining facilities by the sale of food.

BE IT FURTHER ORDAINED by the City of Henderson, Kentucky, that Sec. 4-35, Fees, of Article II. Licenses, of Chapter 4, Alcoholic Beverages, of the City's Code of Ordinances, is hereby amended by adding paragraph (15) to subsection (b), as follows:

**Sec. 4-35. Fees.**

(a) No License under the provisions of this article shall be issued until there has been paid to the city the license fee herein provided.

(b) The following kinds of alcoholic beverage licenses and no others may be issued upon approval of the administrator, and the fees payable therefor to the city shall be as follows:

(15) License for Sunday sales of distilled spirits and wine and malt beverages by the drink in qualified hotels, motels and restaurants, per annum..\$300.00

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner Robert N. Hall, seconded by Commissioner Michele E. Deep, that the ordinance be adopted on its first reading. On roll call the vote stood:

Commissioner Sights:	<u>NAY</u>	Commissioner Mills:	<u>NAY</u>
Commissioner Deep:	<u>AYE</u>	Mayor Lackey:	<u>AYE</u>
Commissioner Hall:	<u>AYE</u>		

WHEREUPON, Mayor Lackey declared the ordinance adopted on first reading and ordered that it be presented for second reading at a meeting of the Board of Commissioners.

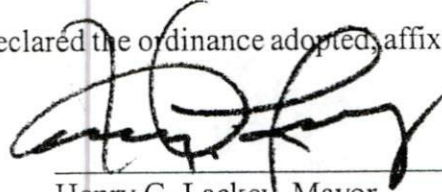
On second reading of the ordinance, it was moved by Commissioner Michele E. Deep, seconded by Commissioner Robert N. Hall, that the ordinance be adopted.



WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Sights:   NAY        Commissioner Mills:   NAY    
Commissioner Deep:   AYE        Mayor Lackey:   AYE    
Commissioner Hall:   AYE  

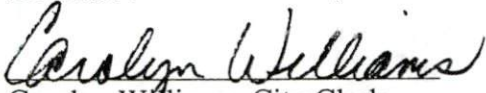
WHEREUPON, Mayor Lackey declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.



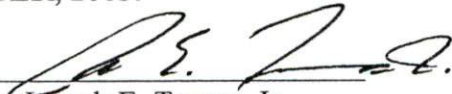
Henry G. Lackey, Mayor

Date:   November 8, 2005  

ATTEST:

  
Carolyn Williams, City Clerk

APPROVED AS TO FORM AND  
LEGALITY THIS 21<sup>st</sup> DAY OF  
OCTOBER, 2005.

By:   
Joseph E. Ternes, Jr.  
City Attorney

RECEIVED  
2005 NOV 22 A 10: 03  
ALCOHOLIC  
BEVERAGE CONTROL

## Chapter 4

### ALCOHOLIC BEVERAGES\*

- Art. I. In General**
- Sec. 4-1. Definitions
  - Sec. 4-2. Scope
  - Sec. 4-3. Adoption of state alcoholic beverage laws
  - Sec. 4-4. City alcoholic beverage control administrator
  - Sec. 4-5. Compliance with alcoholic beverage control laws mandatory
  - Sec. 4-6. Nonexclusive application
  - Sec. 4-7. Restrictions on price advertising
  - Sec. 4-8. Advertising by handbills, circulars and cards prohibited
  - Sec. 4-9. Prizes prohibited
  - Sec. 4-10. Books and records
  - Sec. 4-11. Dancing prohibited.
  - Sec. 4-12. Prohibiting intoxicated persons on licensed premises
  - Sec. 4-13. Opening of and drinking contents of containers on licensed premises
  - Sec. 4-14. Beverages found outside locked compartment when sale prohibited
  - Sec. 4-15. Hours of sale and delivery
  - Secs. 4-16—4-31. Reserved
- Art. II. Licenses**
- Sec. 4-32. Required
  - Sec. 4-33. Application
  - Sec. 4-34. Examination of applicants under oath
  - Sec. 4-35. Fees
  - Sec. 4-36. Authority of administrator to reject or grant
  - Sec. 4-37. Approval of premises selling by the drink by health department required
  - Sec. 4-38. License not to issue where principal trade with school children
  - Sec. 4-39. License not to issue where dancing permitted
  - Sec. 4-40. Inspection of licensed premises; authority of administrator
  - Sec. 4-41. Conditions of license granted
  - Sec. 4-42. Posting of license mandatory
  - Sec. 4-43. Transfer
  - Sec. 4-44. Limitation on number of licenses
  - Sec. 4-45. Revocation or suspension
  - Sec. 4-46. Expiration date

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\*Cross reference—Possession of alcoholic beverages in parks prohibited, § 17-2.

State law reference—Alcoholic beverages, KRS Chs. 241—244.

**ARTICLE I. IN GENERAL****Sec. 4-1. Definitions.**

The words and phrases used in this chapter shall have the same meaning as defined in KRS Chapters 241, 243 and 244. As used herein the term "hotels" shall include motels.

(Code 1968, § 113.04)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 4-2. Scope.**

The provisions of this chapter shall be applicable to the sale and traffic in alcoholic beverages, unless specifically provided to the contrary.

(Code 1968, § 113.02)

**Sec. 4-3. Adoption of state alcoholic beverage laws.**

The provisions of the Alcoholic Beverage Control Law of the state, including KRS Chapters 241, 243 and 244 and the regulations of the state alcoholic beverage control board, as the same may from time to time be amended, are hereby adopted as part of the alcoholic beverage control law of the city, except as otherwise lawfully provided herein.

(Code 1968, § 113.03)

**Sec. 4-4. City alcoholic beverage control administrator.**

(a) Under authority of KRS 241.160 there is hereby created the office of city alcoholic beverage administrator for the city (hereinafter in this chapter referred to as the administrator), who shall have the duties and functions prescribed by KRS Chapter 241. The administrator may or may not be an officer or employee of the city, and shall be appointed by the city manager. He shall also have such further duties and functions as are prescribed in this chapter.

(b) The administrator, before entering upon his duties as such, shall take the oath as prescribed by Section 228 of the Constitution and shall execute a bond with a good and solvent, corporate

surety in the sum of not less than one thousand dollars (\$1,000.00), faithfully to perform the duties of his office pursuant to the provisions of KRS 62.060 et seq.

(Code 1968, §§ 113.05, 113.06)

Cross reference—Administration, Ch. 2.

**Sec. 4-5. Compliance with alcoholic beverage control laws mandatory.**

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto.

(Code 1968, § 113.07)

**Sec. 4-6. Nonexclusive application.**

Nothing contained in this chapter shall excuse or relieve any person from the restrictions, requirements and penalties of any other ordinances of the city, or of any statutes or regulations of the state relating to violations pertaining to alcoholic beverages.

(Code 1968, § 113.08)

**Sec. 4-7. Restrictions on price advertising.**

No sign of any kind, printed or electric, advertising the price of alcoholic beverages shall be displayed so as to be visible from the exterior of any premises licensed for the sale of alcoholic beverages at retail; provided, however, that any licensee may place in the window of his place of business price cards not larger than two and one-half (2½) inches by three (3) inches in size, with the price thereon at which he offers alcoholic beverages for sale.

(Code 1968, § 113.09)

**State law references**—Advertising to comply with regulations of state alcoholic beverage control board, KRS 244.130; advertising brands by retailers prohibited, KRS 244.140; adoption of labeling and advertising regulations of bureau of internal revenue for malt beverages, KRS 244.510; advertisement or label of malt beverages not to refer to alcoholic content, KRS 244.520; signs on malt beverage premises, KRS 244.530; advertising malt beverages near school or church prohibited, KRS 244.540.

**Sec. 4-8. Advertising by handbills, circulars and cards prohibited.**

No licensee under this chapter shall distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

(Code 1968, § 113.10)

**Sec. 4-9. Prizes prohibited.**

No licensee under this chapter shall give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

(Code 1968, § 113.11)

**Sec. 4-10. Books and records.**

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the state alcoholic beverage control board. Such books and records shall be available at all reasonable times for inspection by the administrator.

(Code 1968, § 113.12)

State law reference—License to keep records, KRS 244.150.

**Sec. 4-11. Dancing prohibited.**

No licensee under this chapter, except a hotel or private club, shall invite or permit the patrons of the place of business of such licensee to dance in any room which is equipped to sell, give away or dispense alcoholic beverages from a bar.

(Code 1968, § 113.13)

**Sec. 4-12. Prohibiting intoxicated persons on licensed premises.**

No licensee under this chapter shall permit any person to become drunk or intoxicated on the licensed premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(Code 1968, § 113.14)

**Sec. 4-13. Opening of and drinking contents of containers on licensed premises.**

No licensee to sell alcoholic beverages at retail under this chapter shall permit any person, other than employees of the licensee, to open any container of alcoholic beverages, and no container of alcoholic beverages shall be opened nor its contents consumed on the licensed premises, unless the licensee holds a retail drink license.

(Code 1968, § 113.15)

**Sec. 4-14. Beverages found outside locked compartment when sale prohibited.**

If any alcoholic beverages are found on the outside of the locked or closed-off compartment of any licensed premises at which a license is held to sell alcoholic beverages at retail, at any hours during which the licensee is prohibited by law from selling such alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept on the outside of the locked or closed-off compartment for the purpose of sale in violation of this chapter and of the state alcoholic beverage control laws, and such shall be grounds for revocation or suspension of the license, and in addition to other penalties provided for violations of this section, the administrator shall be and he is hereby authorized to confiscate such alcoholic beverages.

(Code 1968, § 113.16)

**Sec. 4-15. Hours of sale and delivery.**

(a) No premises for which there has been granted a license for the sale of alcoholic beverages within the corporate limits of the city, shall be permitted to remain open for any purpose between 2:00 a.m. and 6:00 a.m., prevailing time, of any week-day.

(b) No premise described in subsection (a) shall be permitted to remain open for any purpose at any time during the hours from 2:00 a.m. Sunday until 6:00 a.m. Monday, prevailing time, nor during the hours during which the polls are open on any legal, primary, school or special election day.

(c) However, if a licensee provides for a separate compartment within his licensed premises capable of being closed off within

which is kept all stocks of alcoholic beverages and all fixtures and appurtenances connected with his business as such licensee, and the compartment is kept locked during the time mentioned above, the above provisions of this section shall not apply.

(Code 1968, § 113.17; Ord. No. 4-78, § 1, 3-14-78)

**State law references**—Time when retail premises selling distilled spirits and wine are to be closed, KRS 244.290; time when delivery and sale of malt beverages are prohibited, KRS 244.480.

**Secs. 4-16—4-31. Reserved.**

## ARTICLE II. LICENSES\*

### Sec. 4-32. Required.

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided for in this article.

(Code 1968, § 113.07)

### Sec. 4-33. Application.

Any person desiring a license to sell, deal in, traffic or possess for sale, alcoholic beverages as provided for by this article shall make a written application to the administrator, stating the street and number of the premises where he expects to carry on the business sought to be licensed. No license shall be issued to any person or to any premises, or to any part of a building other than that approved by the administrator in such license application.

(Code 1968, § 113.30)

### Sec. 4-34. Examination of applicants under oath.

The administrator shall have the power to examine or cause to be examined under oath any applicant for a license under the provisions of this article, and to examine or cause to be examined

\***Cross reference**—Occupational licenses, § 21-31 et seq.

**State law references**—Licenses to traffic in alcoholic beverages, KRS 243.020 et seq.; city licenses, KRS 243.070.

the books and records of such applicant; to hear testimony or to take proof upon the fitness of the applicant for a license or the fitness of his proposed place of business.

(Code 1968, § 113.31)

#### Sec. 4-35. Fees.

(a) No license under the provisions of this article shall be issued until there has been paid to the city the license fee herein provided.

(b) The following kinds of alcoholic beverage licenses and no others may be issued upon approval of the administrator, and the fees payable therefor to the city shall be as follows:

- |   |          |
|---|----------|
| (1) Distiller's license, per annum . . . . .  | \$300.00 |
| (2) Rectifier's license, per annum . . . . .  | 100.00   |
| (3) Blender's license, per annum . . . . .  | 100.00   |
| (4) Wholesale liquor dealer's license, per annum . . . . .  | 500.00   |
| (5) Retail package license, per annum . . . . .   | 300.00   |
| (6) Retail drink license, per annum . . . . .   | 300.00   |
| (7) Brewer's license, per annum . . . . .   | 350.00   |
| (8) Wholesale beer distributor's license, per annum . . . . .   | 300.00   |
| (9) Retail beer license, per annum . . . . .  | 100.00   |
| (10) Special private club license . . . . .   | 150.00   |
| (11) Special temporary license . . . . . per month or part of<br>month, 1/6 of the annual<br>fee set forth herein                               |          |
| (12) Retail package license held in connection with re-<br>tail drink and/or retail beer license—combined li-<br>cense fee, per annum . . . . . | 600.00   |
| (13) Restaurant wine license:   |          |
| a. New applicant . . . . .  | 200.00   |
| b. Renewal . . . . .  | 100.00   |



(14) Restaurant beer license:

- a. New applicant . . . . . 200.00
- b. Renewal . . . . . 100.00

(c) All license fees from licenses issued under this article shall be collected and paid into the general fund of the city for use for the general operating expenses of the city.

(d) When any applicant applies for a license under the provisions of this article to commence business after the first of July of any year, such applicant shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month within the license is granted; provided, however, that no fractional fee shall be permitted where the applicant has actually been doing business under a similar license during the last month of the preceding license period.

(e) If any license issued hereto shall be revoked or cancelled for any reason, the licensee shall not be entitled to a refund of any portion of the license fee.

(Code 1968, §§ 113.41—113.44, 113.51; Ord. No. 8-72, 3-29-72; Ord. No. 25-78, 8-8-78; Ord. No. 9-82, 5-13-82; Ord. No. 27-84, 9-11-84)

State law reference—Authority for these fees, KRS 243.070.

**Sec. 4-36. Authority of administrator to reject or grant.**

The administrator shall be the sole judge of the fitness of any applicant to be granted any of the licenses provided for in this article and of the fitness of the location where any applicant may propose to engage in the business authorized by any of the licenses provided for herein. He shall have the power to authorize any of the licenses provided for herein to such person applying therefor, or shall have the right to reject the application and decline to authorize the issuance of the license. The administrator will authorize issuance of the license provided for in this article only to persons who meet the criteria for issuance of state licenses under KRS 243.100 and KRS 243.450.

(Code 1968, § 113.32)

State law references—Persons who may not be licensed, KRS 243.100; causes for refusal of license, KRS 243.450; issuance of city licenses, KRS 243.610.

**Sec. 4-37. Approval of premises selling by the drink by health department required.**

The administrator shall not authorize a license for the retail sale of alcoholic beverages by the drink, until the applicant and his place of business have been approved by the county health department.

(Code 1968, § 113.33)

**Sec. 4-38. License not to issue where principal trade with school children.**

No license shall be issued to any applicant for the sale at retail of any alcoholic beverage at any business premises where a majority of the business conducted therein is with school children who are regularly attending private, public or parochial schools.

(Code 1968, § 113.34)

**Sec. 4-39. License not to issue where dancing permitted.**

No license to sell alcoholic beverage for consumption on the licensed premises shall be granted to any applicant, except a hotel or private club, who sells, gives away or dispenses, or is equipped to sell, give away or dispense alcoholic beverages from a bar in any room where the patrons of the place of business owned, operated or conducted by the applicant are invited or permitted to dance; nor to any applicant except a hotel or private club who maintains a bar in any room where the patrons of the place of business, owned, operated or conducted by the applicant are invited or permitted to dance.

(Code 1968, § 113.35)

**Sec. 4-40. Inspection of licensed premises; authority of administrator.**

All applicants for a license under the provisions of this article shall, at the time of making an application for a license, make and execute a permit signed by the applicant and providing that the administrator may inspect and search the licensed premises at any time. Such permit for inspection and search shall be attached to and filed with the application and shall be considered a part thereof.

(Code 1968, § 113.36)

**Sec. 4-41. Conditions of license granted.**

All licenses granted under this article shall be granted subject to the following conditions, as well as all other conditions of other ordinances, regulations, statutes, or laws of the city or state applicable thereto:

- (1) Every hotel and private club that procures a license under this article shall be entitled to serve alcoholic beverages as permitted by such license in a separate room or rooms at banquets or dinners or where meals are served; however, no hotel or private club shall maintain or operate, or permit to be operated more than one bar or room where alcoholic beverages are dispensed for sale and which is opened to the general public, without first obtaining a separate license for each bar or room which is opened to the general public.
- (2) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises, and no nuisance suffered, permitted or maintained thereon.
- (3) No gambling or game of chance shall be permitted in any form upon such licensed premises. Dice, slot machines or any devices of chance are prohibited and shall not be kept on such premises.
- (4) No radio receiving apparatus shall be kept or maintained on the licensed premises which can be adjusted so as to receive police messages broadcast from the police radio station as it now or may hereafter be operated. In addition to the other penalties provided herein, for violation of this section the chief of police or the administrator shall have the authority to confiscate any and all such radio receiving apparatus.
- (5) It shall be unlawful for any licensee under this article to keep or sell, or permit to be kept or sold or used on the licensed premises any controlled substances.

(Code 1968, § 113.37)

**Sec. 4-42. Posting of license mandatory.**

Every license issued pursuant to this article shall be posted and shall remain in a conspicuous place in the room where the business is carried on. Should any license be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued at the direction of the administrator on being satisfied of the facts. A fee of one dollar (\$1.00) shall be charged for such duplicate.

(Code 1968, § 113.45)

**State law reference**—Posting of licenses, KRS 243.620.

**Sec. 4-43. Transfer.**

(a) No license to sell alcoholic beverage shall be transferable either as to the licensee or the licensed premises except as provided in the alcoholic beverage control laws of the state, and not then until approval by the administrator and payment to the city of a transfer fee of five dollars (\$5.00).

(b) No assignment of any license issued under this article shall be made except by order of any court of competent jurisdiction and with the approval of the administrator.

(Code 1968, §§ 113.46, 113.47)

**State law references**—Transfer of license without authorization prohibited, KRS 243.630; transfer of license to other premises, KRS 243.650.

**Sec. 4-44. Limitation on number of licenses.**

(a) *Wholesale malt beverages.* No wholesale beer or malt beverage license for the sale, handling or distribution at wholesale of beer or malt beverages shall be sold or issued by the city or any agency thereof if, on account of such sale or issuance, the number of holders of such wholesale licenses would exceed eight (8).

(b) *Retail malt beverages.*

(1) No retail beer or malt beverage license for the sale, handling or distribution at retail of beer or malt beverages shall be sold or issued by the city or any agency thereof if, on account of such sale or issuance the number of holders of such retail licenses would exceed fifty-five (55).

- (2) Notwithstanding anything contained in subsection (b)(1), a beer license may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty (50) percent or more of its gross annual income from food and has a minimum seating capacity of fifty (50) people at tables.
- (3) In computing the number of licenses for the purpose of subsection (b)(1), the following shall be excluded:
  - a. Fraternal or social organizations and private clubs;
  - b. Hotels and motels which hold retail beer licenses pursuant to section 4-35(b)(9);
  - c. Establishments which possess a beer license pursuant to section 4-35(b)(14);
- (4) The limitations as set forth herein as to the number of licenses shall have no force and effect as to licenses issued prior to January 23, 1979.
- (5) This subsection (b) shall not be construed to prohibit or prevent the continuation, renewal of or reissuance of any retail beer license existing prior to January 23, 1979, but in the event any such license is revoked or surrendered the city alcoholic beverage administrator shall not issue any new licenses in the city to exceed the number fixed by subsection (b)(1).

(c) *Lapse upon failure to renew.* The present holders of such wholesale and retail malt beverage licenses and their authorized transferees shall be entitled to renewals thereof in event they shall make due application therefor, and provided they shall meet all other federal, state and municipal requirements; provided, however, that should any holder of such license allow the same to lapse or should such license be revoked or denied for any legal reason, then the same shall not be renewed if to do so would cause the number of holders thereof to be in excess of the numbers set forth in this section. No license will be renewed until the administrator approves of the renewal in writing.

(Code 1968, §§ 113.48—113.50; Ord. No. 8-72, 3-29-72; Ord. No. 31-73, 6-26-73; Ord. No. 2-76, 1-27-76; Ord. No. 25-78, 8-8-78; Ord. No. 3-79, § 1, 1-23-79)

**Sec. 4-45. Revocation or suspension.**

(a) Whenever any licensee shall violate any of the provisions of this article or any other ordinance relating to the subject of alcoholic beverage control, or any of the rules and regulations of the administrator, or any of the provisions of the alcoholic beverage control law of the state, or any amendments or supplements thereto, or any of the rules and regulations adopted by the state alcoholic beverage control board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or upon conviction by a court of competent jurisdiction of any such violation, the administrator is hereby authorized and empowered to order the revocation or suspension of any licenses issued under this article. For purposes of this section, a violation by any duly authorized agent or employee of a licensee shall constitute a violation by the licensee.

(b) Any revocation of the authorization of the state of any licensee to engage in the sale or traffic of alcoholic beverages shall automatically revoke the licenses issued therefor by the city.

(Code 1968, §§ 113.38, 113.39)

**State law references**—Suspension of licenses, KRS 243.480; causes for which licenses may be revoked, KRS 243.490; causes for which licenses must be revoked or suspended, KRS 243.500.

**Sec. 4-46. Expiration date.**

The licenses permitted under the provisions of this article shall be issued for a period of not more than one year, and every license issued hereunder shall expire on the thirtieth day of June of each year.

(Code 1968, § 113.40)

**State law reference**—Similar provisions, KRS 243.090.

[The next page is 273]

CITY OF HENDERSON

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

***Alcoholic Beverage Licenses***

- 110.01 Daily hours of operation
- 110.02 Sunday hours
- 110.03 Exceptions

***Horse Racetrack Licenses***

- 110.15 Establishment
- 110.16 Issuance
- 110.17 License nontransferable
- 110.18 License governed by statutes and regulations for retail sale of alcoholic beverages
- 110.19 Fee
- 110.20 Term of license

***ALCOHOLIC BEVERAGE LICENSES***

**§ 110.01 DAILY HOURS OF OPERATION.**

No premises for which there has been granted a license for the sale of distilled spirits, wine, or malt beverages within the county shall be permitted to remain open for any purpose between 2:00 a.m. and 6:00 a.m., prevailing time, of any weekday. (Ord. 20, passed 5-22-78) Penalty, see § 10.99

**§ 110.02 SUNDAY HOURS.**

No premises for which there has been granted a license for the sale of distilled spirits, wine, or malt beverages within the county shall be permitted to remain open for any purpose at any time during the hours of 2:00 a.m. Sunday until 6:00 a.m. on Monday, prevailing time, nor during the hours during which the polls are open on any legal, primary, school or special election day. (Ord. 20, passed 5-22-78) Penalty, see § 10.99

**§ 110.03 EXCEPTIONS.**

If a licensee provides a separate compartment within his licensed premises capable of being closed off within which is kept all stocks of distilled spirits, wine, and malt beverages, and all fixtures and appurtenances connected with his business as such licensee, and such compartment is kept locked during the times mentioned in §§ 110.01 and 110.02, the above provisions of this subchapter shall not apply. (Ord. 20, passed 5-22-78)

***HORSE RACETRACK LICENSES***

**§ 110.15 ESTABLISHMENT.**

(A) A county horse racetrack license may be issued for the retail sale of distilled spirits, wine and malt beverages for consumption on the premises of any horse racetrack licensed by the appropriate licensing authority of the Commonwealth of Kentucky.

(B) This license shall govern all alcoholic beverage sales on the premises, with the exception that a separate private club license may be issued to a portion of the licensed premises set aside for such purposes and meeting the qualifications of KRS 243.270. (Ord. 53, passed 6-24-85)

**§ 110.16 ISSUANCE.**

The issuance of this license shall be at the discretion of the county alcoholic beverage control administrator. (Ord. 53, passed 6-24-85)

**§ 110.17 LICENSE NONTRANSFERABLE.**

The licenses issued hereunder shall be non-quota and shall not be transferable to other premises. (Ord. 53, passed 6-24-85) Penalty, see § 10.99

**§ 110.18 LICENSE GOVERNED BY STATUTES AND REGULATIONS FOR RETAIL SALE OF ALCOHOLIC BEVERAGES.**

Except as provided hereunder, licenses provided under this subchapter shall be governed by all the statutes and regulations governing the retail sale of distilled spirits and wine by the drink and the retail sale of malt beverages. Proceedings relative to the application, renewal, suspension or revocation of these licenses shall be conducted in the same manner and extent as regular drink and regular malt beverage licenses.

(Ord. 53, passed 6-24-85)

**§ 110.19 FEE.**

The license fee for the horse racetrack license shall be \$2,000 per year.

(Ord. 53, passed 6-24-85)

**§ 110.20 TERM OF LICENSE.**

All such licenses shall expire at midnight on June 30 of each year.

(Ord. 53, passed 6-24-85)

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RESOLUTION NO. 19-2000

RESOLUTION AUTHORIZING RECLASSIFICATION  
OF CITY FROM THIRD CLASS TO SECOND CLASS

WHEREAS, for many years the City of Henderson has met the legal requirements for classification as a City of the second class in the State of Kentucky; and

WHEREAS, the most recent estimate of the population of the City of Henderson is 26,457 in 1998 according to data provided by the United States Bureau of Census; and

WHEREAS, the Board of Commissioners believes it to be in the best interest of the citizens that the City be reclassified from a City of the third class to a City of the second class; and

WHEREAS, the City Manager recommends such reclassification.

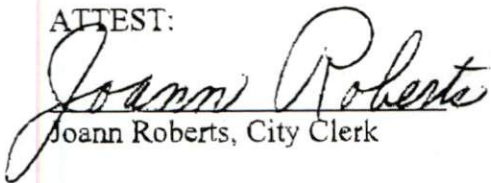
NOW, THEREFORE, BE IT RESOLVED by the City of Henderson, Kentucky, that the recommendation of the City Manager is accepted, and the City hereby declares its desire and intention to be classified as a City of the second class, and the City Manager and City Attorney are hereby authorized and directed to take appropriate action to seek the introduction of legislation in the year 2000 session of the Kentucky General Assembly for the reclassification of the City of Henderson to a City of the second class.

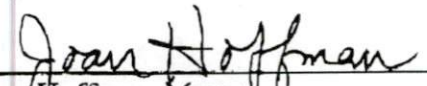
On motion of Commissioner Michele Deep, seconded by Commissioner James Ward, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Sights: <u>AYE</u>	Commissioner Ward: <u>AYE</u>
Commissioner Deep: <u>AYE</u>	Mayor Hoffman: <u>AYE</u>
Commissioner Mills: <u>ABSENT</u>	

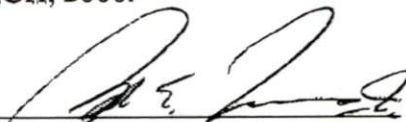
WHEREUPON, Mayor Hoffman declared the Resolution adopted, affixed her signature and the date thereto and ordered that the same be recorded.

ATTEST:

  
Joann Roberts, City Clerk

  
Joan Hoffman, Mayor  
Date: March 6, 2000

APPROVED AS TO FORM AND  
LEGALITY THIS 2<sup>nd</sup> DAY OF  
MARCH, 2000.

By:   
Joseph E. Ternes, Jr.  
City Attorney