

ORDINANCE 5-2017

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE I,  
SECTION 3-8 OF THE OWENSBORO MUNICIPAL CODE  
TO EXPAND THE SALE OF ALCOHOLIC BEVERAGES  
ON SUNDAYS.

**WHEREAS**, citizens and businesses have requested that the City of Owensboro expand the sale of alcoholic beverages on Sundays; and

**WHEREAS**, Kentucky State Law prohibits the sale of alcoholic beverages on a Sunday, unless a local government passes an ordinance expanding the sale of alcoholic beverages in their jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That Chapter 3, Article I, Section 3-8 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

(a) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).

(b) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Sunday, from 11:00 a.m. until 12:00 a.m. the following day (prevailing time). ~~[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 until 2:00 a.m. the following day (prevailing time) on any Sunday having a date of December 31, by: convention centers and convention hotel complexes which are licensed for the retail sale of such alcoholic beverages; and by: hotels, motels and restaurants, including restaurants operated by, and located within, private clubs, which are licensed for the retail sale of such alcoholic beverages and which receive at least fifty (50) percent or more of their gross annual income from their dining facilities by the sale of food.]~~

(c) Premises whose primary business is not the sale of alcoholic beverages may remain open for business during hours in which alcoholic

beverages are not allowed to be sold, so long as the licensee keeps all distilled spirits and wine in a locked or closed off area.

(d) Premises whose primary business is the sale of alcoholic beverages by the drink or package must be, during the closing hours, closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only.

(e) No alcoholic beverages of any kind may be sold [on Sunday from 2:00 a.m. to 1:00 p.m., or] on any other date, time or occasion when prohibited by federal or state law. [A premises licensed for the sale of any alcoholic beverages is in compliance with this section of the Code if the licensee keeps all inventory of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, in a separate department which is secured by a lock during the periods of time in which the sale of alcoholic beverages is prohibited.]

(f) [(d)] In addition to required state licenses, all licensees [convention centers, convention hotel complexes, hotels, motels, restaurants and private clubs] desiring to sell distilled spirits and wine by the drink on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the city, through the alcoholic beverage control administrator, for the Sunday sales, [sales of distilled spirits and wine by the drink,] as required in section 3-31.

(g) [(e)] Rebuttable Presumption. If any distilled spirits, wine or malt beverages are kept on the outside of the locked and closed-off department of any licensed premises during any period of time in which the licensee is prohibited by law from selling distilled spirits, wine or malt beverages, a rebuttable presumption shall arise that such distilled spirits, wine or malt beverages were kept on the outside of the locked and closed-off department with the intention and for the purpose of sale in violation of the law and shall be grounds for revocation or suspension of the license.

**Section 2.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this the 21st day of March, 2017.

**INTRODUCED, PUBLICLY READ AND APPROVED ON SECOND READING,** this the 24<sup>th</sup> day of April, 2017.

*Thomas H. Watson*

Thomas H. Watson, Mayor

ATTEST:

*Beth Cecil*

Beth Cecil, City Clerk

ORDINANCE 38-2013

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE II, SECTION 3-31 OF THE OWENSBORO MUNICIPAL CODE TO AMEND THE ALCOHOL LICENSES CURRENTLY ADMINISTERED BY THE CITY IN COMPLIANCE WITH 2013 SENATE BILL 13; AND TO FURTHER MAKE A DRAFTING AMENDMENT TO A STATUTORY REFERENCE IN SECTION 3-26.

WHEREAS, the Kentucky General Assembly amended and consolidated many of the Alcoholic Beverages Control licenses in 2013 Senate Bill 13 necessitating a change to the licenses in the Owensboro Municipal Code;

WHEREAS, Chapter 3, Article II, Section 3-26 of the Owensboro Municipal Code includes a reference to KRS 244.280 that should be amended to KRS 244.480; and

WHEREAS, these changes in licenses involve no increase in license fees.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That Chapter 3, Article II, Section 3-26 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

(a) No person shall engage in any of the following businesses or activities within the city ~~City~~ without first obtaining the required license from the city ~~alcoholic~~ Alcoholic beverage ~~Beverage control~~ Control administrator ~~Administrator~~:

- (1) Retail sale of malt beverages by the package or drink;
- (2) Wholesale distribution of malt beverages;
- (3) Rectifier or distiller ~~blender~~ of distilled spirits or wine;
- (4) The sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) or more people at tables, which facility receives fifty (50) percent or more of its gross annual income from food; ~~[food (KRS 243.032);]~~
- (5) Wholesale distribution of distilled spirits or wine;

- (6) Retail sale of wine or distilled spirits by the package or drink;
- (7) Activities for which special temporary licenses are authorized by Sections [section[s]] 3-31 and 3-32; [3-32;]
- (8) Operation of a private club, as defined in KRS 241.010(38); [243.270;] which traffics in distilled spirits, wine or malt beverages for consumption on the premises;
- (9) Retail sale of distilled spirits, wine, or malt beverages by a caterer as defined in KRS 243.033 and the Kentucky Administrative Regulations; [Regulations;]
- (10) Retail sale of distilled spirits, wine or malt beverages from more than one (1) bar, counter or similar location under a single retail drink license; [license;]
- (11) Sunday sales of wine, distilled spirits and/or malt beverages by the drink in qualified hotels, motels and restaurants under KRS 244.290 and KRS 244.480; [244.280;]
- (12) Any other business or activity involving the manufacture, distribution or sale of alcoholic beverages for which a license is required under KRS 243.070.

(b) Any person violating any of the provisions of subsection (a) shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not more than five hundred dollars (\$500.00), or by imprisonment for up to thirty (30) days or both such fine and imprisonment. Each incident involving the manufacture, distribution or sale of alcoholic beverages without the required license shall constitute a separate offense.

**Section 2.** That Chapter 3, Article II, Section 3-30 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

Upon adoption of this ordinance, the Alcoholic Beverage Control Administrator shall issue updated licenses to all current license holders, at no additional charge. These updated licenses shall expire on January 31, 2014. Thereafter, all [All] licenses, except special temporary licenses, issued under this chapter, shall expire on January 31 of each year, and the fees therefore shall be due and payable prior to February 1 of each year.

**Section 3.** That Chapter 3, Article II, Section 3-31 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

(a) Pursuant to KRS 243.070, the city hereby imposes the following fees for the alcoholic beverage licenses authorized in Section 3-26 of this Code:

(1) Malt beverage license as follows:

a. Nonquota retail malt beverage package license, per annum \$150.00. The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 beverage drink license for a fee of \$50.00;

b. Nonquota type 4 retail malt beverage drink license, per annum \$150.00. The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of \$50.00;

- c. Malt beverage distributor's license, per annum \$300.00;
- d. Brewer's license, per annum \$300.00;
- e. Microbrewery license, per annum \$400.00;
- (2) Distilled spirit licenses as set forth in KRS 243.030:
  - a. Distiller's license, per annum \$500.00;
  - b. Rectifier's license, per annum \$1,100.00;
  - c. Wholesaler's distilled spirits and wine license, per annum \$1,500.00;
  - d. Quota retail package license, per annum \$700.00;
  - e. Quota retail drink license, per annum \$750.00;
- (3) Nonquota type 1 retail drink license (includes distilled spirits, wine and malt beverages), per annum \$1,700.00;
- (4) Nonquota type 2 retail drink license (includes distilled spirits, wine and malt beverages), per annum \$900.00;
  - a. Nonquota type 2 retail drink license (includes wine and malt beverages, per annum \$550.00;
- (5) Nonquota type 3 retail drink license (includes distilled spirits, wine and malt beverages), per annum \$300.00;
- (6) Distilled spirits and wine special temporary auction license, per event, \$200.00;
- (7) Special Sunday, retail drink license, per annum \$300.00;
- (8) Extended hours supplemental license, per annum \$1,500.00;
- (9) Caterer's license, per annum, \$550.00;
- (10) Bottling house or bottling house storage license, per annum, \$1,000.00;
- (11) Supplemental Bar License, for each of the first five (5) supplemental bar licenses shall be the same as the fee, per annum, for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) licenses to the same licensee at the same premises;
- (12) Special Temporary License, refer to Section 3-32;
  - ~~(1) Retail sale of malt beverages, one hundred fifty dollars (\$150.00);~~
  - ~~(2) Wholesale distribution of malt beverages, three hundred dollars (\$300.00);~~
  - ~~(3) Rectifier of distilled spirits or wine, one thousand one hundred dollars (\$1,100.00);~~
  - ~~(4) Blender of distilled spirits or wine, one thousand dollars (\$1,000.00);~~
  - ~~(5) Retail sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross annual income from the sale of food (KRS 243.032), four hundred dollars (\$400.00);~~
  - ~~(6) Wholesale distribution of distilled spirits or wine, one thousand five hundred dollars (\$1,500.00);~~
  - ~~(7) Retail sale of wine or distilled spirits, seven hundred fifty dollars (\$750.00);~~
  - ~~(8) License for sale of distilled spirits and wine by the package, seven hundred dollars (\$700.00);~~
  - ~~(9) Private clubs, as defined in KRS 243.270, which offer for sale malt beverages, distilled spirits and wine for consumption on the premises within the~~

~~corporate boundaries of the city, be required to obtain an annual license from the city, three hundred dollars (\$300.00);~~

~~(10) The sale of distilled spirits and wine by the drink on Sunday, three hundred dollars (\$300.00);~~

~~(11) Extended hours supplemental license, per annum, one thousand five hundred dollars (\$1,500.00);~~

~~(12) Caterer's license, per annum, five hundred fifty dollars (\$550.00);~~

~~(13) Supplemental bar license, eight hundred dollars (\$800.00);~~

~~(14) Convention Center license, one thousand seven hundred dollars (\$1,700.00);~~

~~(15) Microbrewery license, four hundred dollars (\$400.00);~~

~~(16) Brewer of malt beverages license, three hundred dollars (\$300.00);~~

~~(17)] (13) Any other special license authorized by KRS 243.070 deemed necessary and appropriate by the alcoholic ~~Alcoholic beverage Beverage control Control administrator Administrator~~ for the proper regulation and control of the sale of distilled spirits and wine, as provided for by law or regulation. In establishing the amount of the fee by regulation, the alcoholic ~~Alcoholic beverage Beverage control Control administrator Administrator~~ shall give due regard to the value of the privilege granted and the cost of regulating same. No fee established hereunder shall become effective until it has been approved by the city ~~City manager Manager~~.~~

(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(c) The license fees set forth hereinabove shall be paid at the time the application therefore shall be made and the license issued as herein provided for. If any license is revoked or suspended, or canceled for any reason by the city alcoholic ~~Alcoholic beverage Beverage control Control administrator Administrator~~, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by licensee upon the issuance of the license.

(d) When any person applies for a new license, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(e) Should any person licensed to conduct any of the business authorized under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the ~~commonwealth Commonwealth~~ with reference to alcoholic beverages, the city ~~City~~ shall refund to him

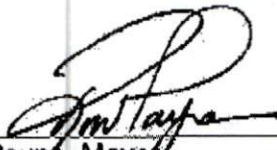
the proportionate part of the license fee for the period during which the licensee is prevented from carrying on the business activity.

(f) All fees from licenses issued under this chapter shall be collected by the city ~~alcoholic-Alcoholic beverage Beverage control-Control administrator Administrator~~ and turned over to the ~~director-Director of finance-Finance~~ on a monthly basis for deposit in the general fund of the city.


**Section 4.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this the 19<sup>th</sup> day of November, 2013.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING,** this the 3<sup>rd</sup> day of December, 2013.

  
\_\_\_\_\_  
Ron Paype, Mayor

ATTEST:

  
\_\_\_\_\_  
Beth Cecil, City Clerk



**ORDINANCE 54-2012**

**AN ORDINANCE AMENDING CHAPTER 3, ARTICLE II, SECTION 3-31 OF THE OWENSBORO MUNICIPAL CODE TITLED "FEES GENERALLY," TO PROVIDE REASONABLE INCREASES IN ALCOHOLIC BEVERAGE LICENSES FEES; AND TO FURTHER CREATE NEW FEES FOR MICROBREWERIES, BREWERS OF MALT BEVERAGES AND CONVENTION CENTERS.**

**WHEREAS**, the majority of the fees charged by the City of Owensboro for a license to engage in the business of manufacturing and sale of alcoholic beverages have not been increased in several years; and

**WHEREAS**, the fees charged by the City of Owensboro for a license to engage in the business of manufacturing and sale of alcoholic beverages are significantly less than those fees charged by other cities in this Commonwealth; and

**WHEREAS**, a reasonable increase in the fees is necessary to cover the costs of administering the licensing of those engaged in the business of manufacturing and sale of alcoholic beverages and enforcement efforts;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**SECTION 1.** That Chapter 3, Article II, Section 3-31 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

Sec. 3-31. - Fees generally.

(a) Pursuant to KRS 243.070, the city hereby imposes the following fees for the alcoholic beverage licenses authorized in section 3-26 of this Code:

✓ (1) Retail sale of malt beverages, one hundred fifty dollars  
✓ (\$150.00); [~~seventy five dollars (\$75.00)~~];

✓(2) Wholesale distribution of malt beverages, three hundred dollars (\$300.00); [~~two hundred dollars (\$200.00);~~]

✓(3) Rectifier [~~or blender~~] of distilled spirits or wine, one thousand one hundred dollars (\$1,100.00); [~~five hundred dollars (\$500.00);~~]

✓(4) Blender of distilled spirits or wine, one thousand dollars (\$1,000.00);

✓(5) Retail sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross annual income from the sale of food (KRS 243.032), four hundred dollars (\$400.00); [~~three hundred dollars (\$300.00);~~]

✓(6) [(5)] Wholesale distribution of distilled spirits or wine, one thousand five hundred dollars (\$1,500.00); [~~seven hundred fifty dollars (\$750.00);~~]

✓(7) [(6)] Retail sale of wine or distilled spirits, seven hundred fifty dollars (\$750.00); [~~six hundred dollars (\$600.00);~~]

✓(8) [(7)] License for sale of distilled spirits and wine by the package, seven hundred dollars (\$700.00); [~~six hundred dollars (\$600.00);~~]

✓(9) [(8)] Private clubs, as defined in KRS 243.270, which offer for sale malt beverages, distilled spirits and wine for consumption on the premises within the corporate boundaries of the city, be required to obtain an annual license from the city, three hundred dollars (\$300.00);

✓(10) [(9)] The sale of distilled spirits and wine by the drink on Sunday, three hundred dollars (\$300.00);

✓(11) [(10)] Extended hours supplemental license, per annum, one thousand five hundred dollars (\$1,500.00); [~~six hundred dollars (\$600.00);~~]

✓(12) [(11)] Caterer's license, per annum, five hundred fifty dollars (\$550.00); [~~one hundred dollars (\$100.00);~~]

✓(13) [(12)] Supplemental bar license, eight hundred dollars (\$800.00); [~~six hundred dollars (\$600.00);~~]

✓(14) Convention Center license, one thousand seven hundred dollars (\$1,700.00);

✓(15) Microbrewery license, four hundred dollars (\$400.00);

✓(16) Brewer of malt beverages license, three hundred dollars (\$300.00);

(17) [(13)] Any other special license authorized by KRS 243.070 deemed necessary and appropriate by the alcoholic beverage control administrator for the proper regulation and control of the sale of distilled spirits and wine, as provided for by law or regulation. In establishing the amount of the fee by regulation, the alcoholic beverage control administrator shall give due regard to the value of the privilege granted and the cost of regulating same.

No fee established hereunder shall become effective until it has been approved by the city manager.

(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(c) The license fees set forth hereinabove shall be paid at the time the application therefor shall be made and the license issued as herein provided for. If any license is revoked or suspended, or canceled for any reason by the city alcoholic beverage control administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by licensee upon the issuance of the license.

(d) When any person applies for a new license, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half ( $\frac{1}{2}$ ) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

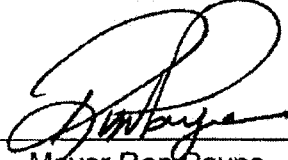
(e) Should any person licensed to conduct any of the business authorized under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the commonwealth with reference to alcoholic beverages, the city shall refund to him the proportionate part of the license fee for the period during which the licensee is prevented from carrying on the business activity.

(f) All fees from licenses issued under this chapter shall be collected by the city alcoholic beverage control administrator and turned over to the director of finance on a monthly basis for deposit in the general fund of the city.

**SECTION 2.** This Ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this the 20th day of November, 2012.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the  
4th day of December, 2012.

  
\_\_\_\_\_  
Mayor Ron Payne

ATTEST:

  
\_\_\_\_\_  
Beth Cecil, City Clerk

ORDINANCE 53- 2011

ORDINANCE AMENDING CHAPTER 3, ARTICLE I, SECTION 3-8, ENTITLED "HOURS FOR THE SALES OF ALCOHOLIC BEVERAGES ESTABLISHED; PROHIBITED HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES; SUNDAY SALES IN QUALIFIED ESTABLISHMENTS; PENALTY" TO ELIMINATE THE REQUIREMENT FOR A MINIMUM SEATING CAPACITY IN HOTELS, MOTELS, AND RESTAURANTS, INCLUDING RESTAURANTS OPERATED BY, AND LOCATED WITHIN, PRIVATE CLUBS, TO SELL DISTILLED SPIRITS AND WINE BY THE DRINK AND MALT BEVERAGES BY INDIVIDUAL CONTAINER ON SUNDAYS FROM 1:00 P.M. UNTIL 11:00 P.M.; INCLUDING CONVENTION CENTERS AND CONVENTION HOTEL COMPLEXES AS QUALIFIED ESTABLISHMENTS TO SELL ALCOHOLIC BEVERAGES ON SUNDAYS; ALLOWING FOR EXTENDED ALCOHOLIC BEVERAGE SALES HOURS AT TIMES WHEN NEW YEARS EVE FALLS ON A SUNDAY; AND MAKING LANGUAGE CHANGES TO VARIOUS SECTIONS IN CHAPTER 3 TO IMPROVE DICTION AND ELIMINATE INCONSISTENCIES WITH THE LANGUAGE IN CHAPTERS 241 THROUGH 244 OF THE KENTUCKY REVISED STATUTES.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

**Section 1.** That Chapter 3, Article I, Section 3-8 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

**Sec. 3-8. Hours for the sale of alcoholic beverages established; prohibited hours for the sale of alcoholic beverages; Sunday sales in qualified establishments; penalty.**

(a) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).

(b) 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 until 2:00 a.m. the following day (prevailing time) on any Sunday having a date of December 31, by: convention centers and convention hotel complexes which are licensed for the retail sale of such alcoholic beverages; and by: hotels, motels and restaurants, including restaurants operated by, and located within, private clubs, which are licensed for the retail sale of ~~malt beverages and distilled spirits and wine by the drink~~ such alcoholic beverages; 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.

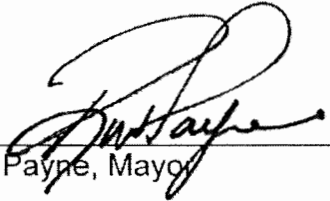
(c) No alcoholic beverages of any kind may be sold on Sunday from 2:00 a.m. to 1:00 p.m., on any primary or regular election day while the polls are still open or on any other date, time or occasion when prohibited by federal or state law. A premises licensed for the sale of any alcoholic beverages is in compliance with this section of the Code if the licensee keeps all inventory of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, in a separate department which is secured by a lock during the periods of time in which the sale of alcoholic beverages is prohibited.

(d) In addition to required state licenses, all convention centers, convention hotel complexes, motels, hotelhotels, motels, restaurants and private clubs desiring to sell distilled spirits and wine ~~or malt beverages~~ by the drink ~~or individual container~~ on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the city, through the alcoholic beverage control administrator, for the Sunday sales of distilled spirits and wine ~~or malt beverages~~ by the drink, as required in section 3-31 of the Owensboro Municipal Code.

(e) *Rebuttable Presumption:* If any distilled spirits, wine or malt beverages are kept on the outside of the locked and closed-off department of any licensed premises during any period of time in which the licensee is prohibited by law from selling distilled spirits, wine or malt beverages, a rebuttable presumption shall arise that such distilled spirits, wine or malt beverages were kept on the outside of the locked and closed-off department with the intention and for the purpose of sale in violation of the law and shall be grounds for revocation or suspension of the license.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this the 6<sup>th</sup>  
day of December, 2011.

INTRODUCED, PUBLICLY READ AND APPROVED ON SECOND  
READING, this the 12<sup>th</sup> day of December, 2011.

  
\_\_\_\_\_  
Ron Payne, Mayor

ATTEST:

  
\_\_\_\_\_  
Beverly Lovan, City Clerk

**//Owensboro, Kentucky/MUNICIPAL CODE City of OWENSBORO, KENTUCKY Codified through Ord. No. 6-2008, adopted March 18, 2008. (Supplement No. 36)/Chapter 3 ALCOHOLIC BEVERAGES\*/ARTICLE I. IN GENERAL**

## **ARTICLE I. IN GENERAL**

### **Sec. 3-1. Short title.**

This chapter shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Owensboro.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-2. Definitions.**

All words and phrases used in this chapter, unless the context requires otherwise, shall have the same meanings as set forth in chapters 241, 242, 243 and 244 of the Kentucky Revised Statutes and Title 804, Kentucky Administrative Regulations, Chapter 1, et seq., as amended from time to time.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-3. Scope.**

This chapter shall be construed to apply to the sale, transportation, storage, advertising and trafficking of malt beverages, distilled spirits and wine where the context permits such application.

Nothing contained in this chapter shall exempt or exonerate an owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinance or ordinances of the city or of any statutes or administrative regulations of the state relating to the manufacture, sale, transportation, storage, advertising or trafficking of alcoholic beverages.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-4. Alcoholic beverage control administrator.**

(a) *Establishment of Office:* There is hereby established the office of "Alcoholic Beverage Control Administrator."

(b) *Appointment:* The city manager shall appoint an alcoholic beverage control administrator. The administrator may be removed from office at any time, with or without cause, by the city manager.

(c) *Compensation:* The compensation of the alcoholic beverage control administrator shall be established by the city manager, with the approval of the board of commissioners.

(d) *Oath; Bond:* The administrator, before entering upon the duties of the office, shall take the oath required of public officers and execute the surety bond in conformity with KRS 62.050, 62.060 and 241.180.

(e) *Duties of Administrator:* The functions of the city alcoholic beverage control administrator



shall be the same with respect to the city licenses and regulations as the functions of the alcoholic beverage control board of the commonwealth with respect to state licenses and regulations.

(1) The administrator shall perform all duties and functions within the corporate boundaries of Owensboro authorized and directed by KRS 241.190, and may adopt and promulgate any and all forms, rules and regulations reasonable and necessary to carry out the duties of the office. No rules or regulations adopted by the alcoholic beverage control administrator may be less stringent than the corresponding statutes relating to alcoholic beverage control, or than regulations adopted by the state alcoholic beverage control board. No regulation of the city alcoholic beverage control administrator shall become effective until it has first been approved by the city manager.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross references:** Officers generally, § 2-31 et seq.

**State law references:** Alcoholic beverage control administrator, KRS 241.160 et seq.

### **Sec. 3-5. Solicitation of sales through distribution of printed material.**

It shall be unlawful for a licensee, its employees, contractors or agents to solicit the sale of alcoholic beverages in person and through the distribution of flyers, circulars, cards or other printed media within the city; or engage in any other solicitation or advertising prohibited by KRS 244.280 and Kentucky Administrative Regulations 804 KAR (Chapters 1 and 2) as amended.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-6. Incentives promoting sales of alcoholic beverages prohibited.**

It shall be unlawful for any retail licensee under this chapter to give away or offer to give glasses, mugs, tee-shirts, posters or any other tangible item of value as an incentive, inducement, premium or prize, intended to promote the sale of alcoholic beverages.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-7. Books and records.**

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

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-8. Hours for the sale of alcoholic beverages established; prohibited hours for the sale of alcoholic beverages; Sunday sales in qualified establishments; penalty.**

(a) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).

(b) 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, including restaurants operated by, and located within, private clubs, 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.

(c) No alcoholic beverages of any kind may be sold on Sunday from 2:00 a.m. to 1:00 p.m., on any primary or regular election day while the polls are still open or on any other date, time or occasion when prohibited by federal or state law. A premises licensed for the sale of any alcoholic beverages is in compliance with this section of the Code if the licensee keeps all inventory of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, in a separate department which is secured by a lock during the periods of time in which the sale of alcoholic beverages is prohibited.

(d) In addition to required state licenses, all motels, hotels, restaurants and private clubs desiring to sell distilled spirits, wine or malt beverages by the drink or individual container on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the city, through the alcoholic beverage control administrator, for the Sunday sales of distilled spirits, wine or malt beverages by the drink, as required in section 3-31 of the Owensboro Municipal Code.

(e) *Rebuttable Presumption:* If any distilled spirits, wine or malt beverages are kept on the outside of the locked and closed-off department of any licensed premises during any period of time in which the licensee is prohibited by law from selling distilled spirits, wine or malt beverages, a rebuttable presumption shall arise that such distilled spirits, wine or malt beverages were kept on the outside of the locked and closed-off department with the intention and for the purpose of sale in violation of the law and shall be grounds for revocation or suspension of the license.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-9. Permitting intoxicated persons on licensed premises.**

No person holding a retail license for the sale of alcoholic beverages, shall permit any person to become intoxicated on the premises, nor shall any licensee permit any person who is intoxicated or appears to be under the influence of drugs and/or alcohol to remain on the licensed premises.

(Ord. No. 16-2003, § 1, 4-15-2003)

**State law references:** Sales to drunkards, etc., KRS 244.080.

### **Sec. 3-10. Opening and consumption of alcoholic beverages on licensed premises.**

No person holding a retail license for the sale of alcoholic beverages shall permit any person other than employees of the licensee, to open any container of distilled spirits, wine or malt beverages, and no container of distilled spirits, wine or malt beverages shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license.

(Ord. No. 16-2003, § 1, 4-15-2003)

### **Sec. 3-11. Prohibition of nude or nearly nude activities on the premises of any business establishment licensed to sell or permit the consumption of any alcoholic beverages.**

(a) *Definitions:* As used in this section, these terms shall have the following meanings:

(1) "Business establishment" shall mean business within the city where distilled spirits, wine and/or malt beverages are sold by the drink for consumption on the premises pursuant to a retail distilled spirits, wine and/or malt beverage license that has been issued by the city.

(2) "License" shall mean a retail drink distilled spirits, wine and/or malt beverage license issued by the city.

(3) "Licensee" shall mean any person to whom a retail distilled spirits, wine and/or malt beverage by the drink license has been issued by the city, including the officers and agents of the licensee.

(4) "The alcohol beverage control administrator" shall mean the duly appointed alcoholic beverage control administrator of the city.

(5) "Occupational license" shall mean the occupational license issued to a business establishment pursuant to the city's occupational license ordinance.

(6) "Person" shall mean a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.

(7) "Premises" shall mean the land and building in and upon which any business establishment regulated by alcoholic beverage statutes, is carried on.

(8) "Retail licensee" shall mean any licensee, including its officers, employee and/or agents, who sell at retail, any alcoholic beverage for the sale of which an occupational license is required.

(b) *Prohibited Activities:* It shall be unlawful for, and a person is guilty of, performing nude or nearly nude activity when that person appears on a business establishment's premises in such manner or attire as to expose to view any portion of the public area, anus, vulva, or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view the portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard; bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

(c) *Licensees Permitting Nude or Nearly Nude Activities:* A licensee or retail licensee is guilty of permitting nude or nearly nude activity when, having control of the business establishment's premises, such licensee knowingly organizes, supervises, promotes, permits, acquiesces, or fails to make a reasonable and timely effort to halt or abate, any nude or nearly nude activity, as defined and prohibited in subsection (b), on said premises.

(d) *Penalties:*

(1) Any person who violates subsections (b) and/or (c) shall be punished by a fine of up to two hundred fifty dollars (\$250.00) for each violation.

(2) A second violation of subsections (b) and/or (c) above within a twelve-month period shall constitute class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(3) Three (3) or more violations of subsections (b) and/or (c) within a twelve-month period shall constitute class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(e) *Revocation of Liquor License:*

(1) In the event that a violation of subsections (b) and/or (c) of this section occurs, the alcoholic beverage control administrator shall forthwith conduct a hearing in conformity with section 3-36 of this chapter, to determine whether the alcoholic beverage licensee, at whose business establishment the activity prohibited by this section occurred, shall have its distilled spirits, wine and/or malt beverage licenses suspended or revoked.

(2) In the event that three (3) or more violations of subsections (b) and/or (c) of this section occur at a business establishment within a twelve-month period, the alcoholic beverage control administrator, after a hearing, shall revoke the retail drink liquor license or retail malt beverage liquor license or both.

(f) *Revocation of Occupational License:*

(1) In the event that a violation of subsections (b) or (c) of this section occur, the city manager shall prefer charges against the retail licensee pursuant to the city's adult entertainment establishment ordinance, and after a notice and hearing before the board of commissioners as provided therein, said occupational license shall either be revoked or suspended.

(2) In the event that three (3) or more violations of subsections (b) or (c) of this section occur at a business establishment within a twelve-month period, after notice and hearing as provided in the adult entertainment establishment ordinance provisions, the board of commissioners shall revoke the occupational license of the retail licensee.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross references:** Revocation or suspension of liquor license for violations of any laws pertaining to alcoholic beverage control, § 3-36; regulation of adult entertainment establishments, § 16-251 et seq.

Secs. 3-12--3-25. Reserved.

## ORDINANCE 1-2004

**ORDINANCE AMENDING CHAPTER 3, ARTICLE II OF THE OWENSBORO MUNICIPAL CODE BY ADDING NEW LANGUAGE IN SECTION 3-35 (NOW RESERVED) ENTITLED "MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING; STANDARDS FOR CERTIFICATION" REQUIRING ALL PERSONS, CORPORATIONS, RESTAURANTS, BUSINESSES, CLUBS AND OTHER ENTITIES LICENSED OR EMPLOYED IN THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES TO PARTICIPATE IN AND COMPLETE A MANDATORY RESPONSIBLE BEVERAGE SERVER TRAINING PROGRAM THAT INCORPORATES MINIMUM STANDARDS FOR TRAINING CERTIFICATION; AND FURTHER REQUIRING THAT ALL TRAINING REQUIRED BE COMPLETED WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND REQUIRING THAT ALL PERSONS WHO COMPLETE THE TRAINING TO BE RECERTIFIED NOT LESS THAN ONCE EVERY THREE (3) YEARS; AND FURTHER PROVIDING THAT ANY PERSON, CORPORATION, LICENSEE, RESTAURANT OR BUSINESS WHO VIOLATES THIS ORDINANCE SHALL, UPON CONVICTION THEREOF, BE FINED IN AN AMOUNT NOT TO EXCEED \$100.00, WITH A MAXIMUM FINE OF \$500.00 FOR SUBSEQUENT VIOLATIONS WITHIN A TWO-YEAR PERIOD.**

**WHEREAS**, the City of Owensboro, Kentucky, has been working closely with RiverValley Regional Prevention Center and Community Solutions for Substance Abuse to identify and address local concerns about underage access to alcoholic beverages and impairment issues and risks associated with the legal consumption of alcoholic beverages in the Owensboro community; and

**WHEREAS**, RiverValley Regional Prevention Center and Community Solutions conducted a survey to assess the Owensboro community's perceptions on issues related to alcohol availability, responsible beverage serving requirements, special events and festivals, law enforcement and alcohol/drug abuse; and

**WHEREAS**, the foregoing community surveys and assessments suggest that there is public concern regarding the availability of alcohol to persons under the age of twenty-one (21) and the effects of alcohol impairment in our community; and

**WHEREAS**, there is a general consensus that persons under the age of twenty-one (21) can easily purchase alcoholic beverages, often without showing age identification and that alcohol sales to individuals who are already intoxicated poses a significant risk of death or serious injury to the motoring public as well as potential legal liability for businesses whose employees serve alcohol to impaired individuals or motorists; and

**WHEREAS**, the Board of Commissioners finds and declares that persons licensed for the sale of alcoholic beverages and their employees, would be less inclined to sell or serve alcoholic beverages to underage persons or adults who have become intoxicated through the consumption of alcoholic beverages if they are properly trained and educated through a responsible beverage server training course that meets certain standards of certification; and

**WHEREAS**, in order to protect and promote the health, safety and welfare of the citizens of Owensboro, increase public education and awareness, reduce the consumption of and access to alcoholic beverages by persons under the age of twenty-one (21), reduce the risk of liability to persons, restaurants, and businesses licensed for the sale of alcoholic beverages that are associated with alcohol impairment and to improve the overall quality of life in the City of Owensboro, it is the desire and intention of the Board of Commissioners to adopt an ordinance requiring all persons licensed for or employed in the sale of, alcoholic beverages to complete a mandatory responsible beverage server training program based on certain minimal criteria that are approved by the City Manager, at least once every three (3) years.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That Chapter 3, Article II of the Owensboro Municipal Code be amended by inserting new language in Section 3-35 (now reserved) to be entitled "Mandatory Responsible Beverage Service Training; Standards for Certification," as follows:

**Section 3-35. Mandatory responsible beverage service training; standards for certification.**

(a) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the City Manager of the City of Owensboro or the City Manager's designee. Before approval is granted, the City Manager or his designee shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The City shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.

(b) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by the City of Owensboro for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the City Manager of the City of Owensboro or the City Manager's designee.

(c) Subsections (a) and (b) above shall not apply to any Manufacturer of alcoholic beverages as this term is defined in KRS 241.010(29) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(d) Standards for Certification. The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:

1. Pertinent federal, state and local laws related to the sale of alcohol;
2. Verification of age, forms of identification and usual methods of false or misleading age identification;
3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
4. Recognition of the signs of intoxication;
5. Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
6. The licensee's policies and guidelines, including the employee's role in observing those policies; and
7. Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

(e) All persons required to undergo the training set forth in paragraph (a) above shall complete same within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the City Manager or his designee under the foregoing criteria not less than once every three (3) years thereafter.

(f) Personnel Certification Records. Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this ordinance. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the Alcoholic Beverage Control Administrator, all licensees and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

(g) Penalties:

(1) No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.

(2) Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this ordinance, shall upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.

**Section 2.** All prior ordinances or parts thereof, in conflict with the provisions of this ordinance, are to the extent of any such conflict, hereby repealed.

**Section 3.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this the 3rd day of February, 2004.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING,** this the 17th day of February, 2004.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



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**Sec. 3-26. Required.**

- (a) No person shall engage in any of the following businesses or activities within the city without first obtaining the required license from the city alcoholic beverage control administrator:
- (1) Retail sale of malt beverages by the package or drink;
  - (2) Wholesale distribution of malt beverages;
  - (3) Rectifier or blender of distilled spirits or wine;
  - (4) The sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) or more people at tables, which facility receives fifty (50) percent or more of its gross annual income from food (KRS 243.032);
  - (5) Wholesale distribution of distilled spirits or wine;
  - (6) Retail sale of wine or distilled spirits by the package or drink;
  - (7) Activities for which special temporary licenses are authorized by section[s] 3-31 and 3-32
  - (8) Operation of a private club, as defined in KRS 243.270, which traffics in distilled spirits, wine or malt beverages for consumption on the premises;
  - (9) Retail sale of distilled spirits, wine, or malt beverages by a caterer as defined in KRS 243.033 and the Kentucky Administrative Regulations;
  - (10) Retail sale of distilled spirits, wine or malt beverages from more than one (1) bar, counter or similar location under a single retail drink license.
  - (11) Sunday sales of wine, distilled spirits and/or malt beverages by the drink in qualified hotels, motels and restaurants under KRS 244.290 and KRS 244.280.
  - (12) Any other business or activity involving the manufacture, distribution or sale of alcoholic beverages for which a license is required under KRS 243.070.
- (b) Any person violating any of the provisions of subsection (a) shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not more than five hundred dollars (\$500.00), or by imprisonment for up to thirty (30) days or both such fine and imprisonment. Each incident involving the manufacture, distribution or sale of alcoholic beverages without the required license shall constitute a separate offense.

(Ord. No. 16-2003, § 1, 4-15-2003)

**State law reference—** Municipal licenses, KRS 243.070; penalties for violation of state liquor laws, KRS 243.990.

**Sec. 3-27. License application; public notice of intention to apply for license; approval.**

- (a) *Definition:* For purposes of this section, "applicant" means any person, partnership (members thereof) or corporation (private officers and directors thereof).
- (b) All applications for alcoholic beverage licenses established under this article shall be made in writing on forms provided by the city alcoholic beverage administrator. Application forms shall be consistent with those provided by the state with regard to applications for state licenses. No license established

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under this article shall be granted until the application has first been approved by the city administrator.

- (c) The city alcoholic beverage administrator shall not issue a license authorized under this article to any applicant for the sale of alcoholic beverages within the city until public notice of the applicant's intention to apply for said license has been published pursuant to KRS 243.360, and proof of publication requirements therein has been submitted with the application for said license.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-28. Conditions for issuance of license; certain conduct and activities prohibited.**

All licensees who obtain any license established under this article shall comply with all state laws and city ordinances and regulations, including regulations adopted by the city alcoholic beverage control administrator, and said licenses shall be issued under the following conditions:

- (1) Every motel, hotel, restaurant and private club holding a license under this article shall be entitled to serve such beverages as the licensee is entitled to serve in a separate room or rooms at banquets or dinners or where meals are served; however, no motel, hotel, restaurant or private club shall maintain or operate or permit to be operated more than one (1) bar or room where alcoholic beverages are sold and which is opened to the general public without first obtaining a separate or supplemental bar license with respect thereto, as authorized under this article.
- (2) Each licensed premises shall at all times be conducted in an orderly manner; and no disorderly or riotous conduct shall be allowed at any time on any licensed premises; and no nuisance shall be suffered, permitted or maintained thereon.
- (3) No gambling, dice, slot machines, gambling device or other games of chance shall be permitted in any form on or about any licensed premises, unless otherwise authorized by state statute.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-29. Compliance and payment of delinquent taxes; prerequisite to issuance or renewal of license.**

No license to sell alcoholic beverages shall be issued or renewed to any person, corporation, company, association, restaurant, business, club, or any other entity that does not have a valid occupational license (also referred to as a business license); or has been issued a stop work order, correction notice or similar directive by the city that has not been lifted; or has failed to submit personnel certification records demonstrating completion of the responsible beverage service training as required in the Owensboro Municipal Code; or has failed to file the requisite occupational license fee return or other submission as required in the Owensboro Municipal Code; or who is delinquent by law in the payment of any real or personal ad valorem taxes or any net profits or occupational license fees due to the city at the time of application for an original license or at the time of issuance of a renewal license, nor shall a license be issued to, or renewed for, any person who intends to sell alcoholic beverages on any premises or property owned, leased or occupied by the licensee, upon which there are any such delinquent taxes due the city. If any taxes or fees due the city for any taxing year or period prior to the date of the application for, or renewal of, a license are unpaid and delinquent upon the property or premises for which an alcoholic beverage license is sought, the alcoholic beverage control administrator shall not approve the license until he or she first receives from the director of finance and support services or his or her designee, a written statement verifying that the applicant for the license has paid the delinquent taxes or made satisfactory arrangements with the city for the payment of same.

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(Ord. No. 16-2003, § 1, 4-15-2003; Ord. No. 50-2011, § 1, 12-8-2011)

**Sec. 3-30. Expiration date; date fees due and payable.**

All licenses, except special temporary licenses, issued under this chapter, shall expire on January 31 of each year, and the fees therefor shall be due and payable prior to February 1 of each year.

(Ord. No. 16-2003, § 1, 4-15-2003; Ord. No. 7-2008, § 1, 4-1-2008)

**Sec. 3-31. Fees generally.**

(a) Pursuant to KRS 243.070, the city hereby imposes the following fees for the alcoholic beverage licenses authorized in section 3-26 of this Code:

- (1) Retail sale of malt beverages, one hundred fifty dollars (\$150.00);
- (2) Wholesale distribution of malt beverages, three hundred dollars (\$300.00);
- (3) Rectifier of distilled spirits or wine, one thousand one hundred dollars (\$1,100.00);
- (4) Blender of distilled spirits or wine, one thousand dollars (\$1,000.00);
- (5) Retail sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross annual income from the sale of food (KRS 243.032), four hundred dollars (\$400.00);
- (6) Wholesale distribution of distilled spirits or wine, one thousand five hundred dollars (\$1,500.00);
- (7) Retail sale of wine or distilled spirits, seven hundred fifty dollars (\$750.00);
- (8) License for sale of distilled spirits and wine by the package, seven hundred dollars (\$700.00);
- (9) Private clubs, as defined in KRS 243.270, which offer for sale malt beverages, distilled spirits and wine for consumption on the premises within the corporate boundaries of the city, be required to obtain an annual license from the city, three hundred dollars (\$300.00);
- (10) The sale of distilled spirits and wine by the drink on Sunday, three hundred dollars (\$300.00);
- (11) Extended hours supplemental license, per annum, one thousand five hundred dollars (\$1,500.00);
- (12) Caterer's license, per annum, five hundred fifty dollars (\$550.00);
- (13) Supplemental bar license, eight hundred dollars (\$800.00);
- (14) Convention Center license, one thousand seven hundred dollars (\$1,700.00);
- (15) Microbrewery license, four hundred dollars (\$400.00);
- (16) Brewer of malt beverages license, three hundred dollars (\$300.00);
- (17) Any other special license authorized by KRS 243.070 deemed necessary and appropriate by the alcoholic beverage control administrator for the proper regulation and control of the sale of distilled spirits and wine, as provided for by law or regulation. In establishing the amount of the fee by regulation, the alcoholic beverage control administrator shall give due regard to the value of the privilege granted and the cost of regulating same. No fee established hereunder shall become effective until it has been approved by the city manager.

(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any

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license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

- (c) The license fees set forth hereinabove shall be paid at the time the application therefor shall be made and the license issued as herein provided for. If any license is revoked or suspended, or canceled for any reason by the city alcoholic beverage control administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by licensee upon the issuance of the license.
- (d) When any person applies for a new license, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (½) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (e) Should any person licensed to conduct any of the business authorized under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the commonwealth with reference to alcoholic beverages, the city shall refund to him the proportionate part of the license fee for the period during which the licensee is prevented from carrying on the business activity.
- (f) All fees from licenses issued under this chapter shall be collected by the city alcoholic beverage control administrator and turned over to the director of finance on a monthly basis for deposit in the general fund of the city.

(Ord. No. 16-2003, § 1, 4-15-2003; Ord. No. 7-2008, 1, 4-1-2008; Ord. No. 54-2012, § 1, 12-4-2012)

**State law reference—** Municipal license fees, KRS 243.070.

**Sec. 3-32. Special temporary licenses.**

- (a) All applications for special temporary licenses authorized under KRS Chapter 243 shall be on forms provided by the alcoholic beverage control administrator and shall be filed with the administrator at least thirty (30) days prior to the date of the event for which the license is requested.
- (b) The city alcoholic beverage administrator may, in his or her discretion, approve all distilled spirits and/or wine and malt beverage special temporary licenses within the city when in the sole discretion of the city administrator, the necessity therefor has been established. Necessity is established when the license is to be issued to any regularly organized fair, racing association for a particular fair, race, race meeting conducted by an association, exposition, picnic, bazaar, carnival, non-profit organization, political campaign function or for-profit individual, corporation, or organization, when used in conjunction with and as a part of, an organized charitable, civic or community-sponsored event.
- (c) The provisions in subsection (a) hereinabove notwithstanding, distilled spirits, wine and/or malt beverage special temporary licenses may be refused by the city alcoholic beverage administrator for any reason which the administrator, in the exercise of his or her sound discretion, deems sufficient, as provided in KRS 243.450. Among those factors that the administrator shall consider in the exercise of his or her discretion are:
  - (1) The nature, theme, orientation and duration of the organized charitable, civic or community-sponsored event; the day(s) of the week and hours each day of the special event during which alcoholic beverages are proposed to be sold;

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- (2) Whether or not the charitable, civic or community-sponsored event has been permitted by the city's special events committee; and applicant's membership, affiliation with or participation in, the approved special event;
  - (3) The impact, if any, on public health, safety and welfare;
  - (4) The impact, if any, of the special event on pedestrian and vehicular traffic and traffic flow;
  - (5) The disruption of and inconvenience to affected residences and businesses;
  - (6) The number of premises licensed for the sale of alcoholic beverages that are located within or in close proximity to the boundaries of the proposed event;
  - (7) The impact, if any, of the special community event on the local economy; and
  - (8) The proximity of the special community event to churches, schools, child care or other facilities, parks or venues primarily utilized by minors;
  - (9) Those factors set forth in KRS 243.450(2).
- (d) The city alcoholic beverage administrator shall not issue a special temporary alcoholic beverage license in conjunction with any organized charitable, civic, or community-sponsored event if:
- (1) The applicant or the premises for which the license is sought does not comply fully with all alcoholic beverage control statutes, administrative regulations of the board or other city ordinances;
  - (2) The applicant or the premises for which the license is sought does not comply with all regulations of the city administrator;
  - (3) The applicant has done any act for which a revocation of license would be authorized; or
  - (4) The applicant has made any false material statement in his application.
- (e) Any license issued under this section shall authorize the licensee to exercise the privileges granted therein in accordance with the terms, conditions and limitations established by the administrator, on the designated premises, for a period of time not to exceed ten (10) consecutive days or a total of thirty (30) days within a twelve-month period.
- (f) If the city alcoholic beverage administrator shall, in his or her discretion, refuse to issue a distilled spirits, wine and/or malt beverage special temporary license, a written notice of denial shall be mailed to the applicant within ten (10) working days after the filing of the application and submission of any supporting information requested by the administrator, which notice shall set forth the reasons for the denial.
- (g) The alcoholic beverage administrator is hereby authorized and directed to impose a license fee of one hundred sixty-six dollars and sixty-six cents (\$166.66), per event, for each distilled spirits and wine special temporary license, a fee of fifty dollars (\$50.00) for each special temporary wine license, and a fee of twenty-five dollars (\$25.00), per event, for each malt beverage special temporary license issued.
- (h) The alcoholic beverage administrator is authorized to adopt any and all rules and regulations necessary and appropriate for the issuance of special temporary licenses provided in this section.

(Ord. No. 16-2003, § 1, 4-15-2003)

**State law reference—** Limitation on fee, KRS 243.040.

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**Sec. 3-33. Lost or destroyed licenses.**

If a license is lost or destroyed without fault on the part of the licensee, his agents or employees, a duplicate in lieu of the original license, shall be issued by the city alcoholic beverage control administrator upon payment of a duplicate license fee in the amount of ten dollars (\$10.00).

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-34. No transfer or assignment of license without authorization prohibited.**

No license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 and 243.650. If transfers or assignments are approved by the city alcoholic beverage control administrator, they shall not be issued until a payment of twenty-five dollars (\$25.00) is made to the director of finance.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-35. Mandatory responsible beverage service training; standards for certification.**

- (a) All persons, corporations, companies, associations, , restaurants, businesses, clubs and other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the city manager of the city or the city manager's designee. Before approval is granted, the city manager or his designee shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The city shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.
- (b) All persons, corporations, companies, associations, restaurants, businesses, clubs and other entities licensed by the city for the sale of alcoholic beverages shall require all their employees and other persons who are engaged in the selling or serving of alcoholic beverages or which are engaged in managing the premises on which such sales are offered, to complete a responsible beverage service training class approved by the city manager of the city or the city manager's designee.
- (c) Subsections (a) and (b) above shall not apply to any manufacturer of alcoholic beverages as this term is defined in KRS 241.010(30) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.
- (d) *Standards for Certification.* The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:
  - (1) Pertinent federal, state and local laws related to the sale of alcohol;
  - (2) Verification of age, forms of identification and usual methods of false or misleading age identification;
  - (3) The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
  - (4) Recognition of the signs of intoxication;

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- (5) Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
- (6) The licensee's policies and guidelines, including the employee's role in observing those policies; and
- (7) Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

- (e) New licensees and their respective employees, managers, officers and agents who are required to complete the mandatory responsible beverage service training shall have sixty (60) days from the date of the issuance of their initial license to complete the mandatory responsible beverage service training. New employees, managers, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment or other like affiliation with the licensee. Licensees, employees, managers, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the city manager or his designee under the foregoing criteria not less than once every three (3) years thereafter.
- (f) *Personnel Certification Records:* Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this section. Training records shall be retained by the licensee for a minimum of three (3) years. Each licensee and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein, and in a format approved by the alcoholic beverage control administrator, by December 1 of each year and, additionally, upon the request of the alcoholic beverage control administrator at any other time throughout the year.
- (g) No person, corporation, company, partnership, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.

(Ord. No. 1-2004, § 1, 2-17-2004; Ord. No. 50-2011, § 2, 12-6-2011)

**Sec. 3-36. Revocation or suspension of license.**

- (a) Any alcoholic beverage license issued under this chapter may be revoked or suspended by the alcoholic beverage control administrator for any cause or reason set forth in KRS 243.450, 243.490 and/or 243.500, as well as for violation of any city ordinance regarding alcoholic beverage licensing, sales or administrative regulations pertaining thereto promulgated by the local administrator, or any violation of chapter 16 of the Owensboro Municipal Code (licenses, taxation and miscellaneous business regulations).
- (b) A violation of any of the provisions of this chapter or any amendment thereof, by an employee or duly authorized agent of a licensee shall constitute a violation by the licensee.
- (c) It shall be the duty of the chief of police to report in writing to the city alcoholic beverage control administrator any violation of state law or this chapter or any amendment thereto, or of any rules or regulations duly adopted by the administrator, that are observed by members of the city police department. When any licensee shall violate any such statute, ordinance or other provisions of this

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chapter relating to the sale or consumption of alcoholic beverages, 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 city alcoholic beverage control administrator is hereby authorized to initiate proceedings to suspend or revoke any license issued under this chapter.

- (d) *Suspension/Revocation; Notice of Violation; Hearing:* The local alcoholic beverage control administrator may initiate proceedings to suspend or revoke a license issued under this chapter by serving the licensee with a written "notice of violation" setting forth the reasons for the suspension or revocation and notifying licensee of the date, time and place of a hearing to be held by the local administrator, or some other person designated by him or her for that purpose, on the alleged violation(s). The notice requirements of this section are satisfied if the administrator sends the "notice of violation" to the licensee's last known address according to the license records on file. The "notice of violation" required herein shall be personally served on or sent to the licensee at his or her last known address at least seven (7) days prior to the date on which the hearing is to be held. At the hearing, the licensee shall be given the opportunity to "show cause" why his or her license should not be suspended or revoked, as the case may be. The licensee shall also be entitled to be represented by legal counsel, shall be entitled to examine the evidence in support of the alleged violation(s), may cross examine witnesses and submit evidence on the licensee's behalf. The administrator or designated hearing officer shall not be bound by formal rules of evidence and may admit hearsay evidence under appropriate circumstances. At the conclusion of the hearing, or within a reasonable time thereafter, the administrator or his or her designee shall issue an order either dismissing the "notice of violation", suspending the license for a designated time period or revoking the license in its entirety. At the conclusion of the hearing, or within a reasonable time thereafter, the administrator or his designee shall issue findings of fact and conclusions of law to support its decision and a copy of same shall be mailed to the licensee in question. A copy of the decision of the administrator or his designee shall be submitted to the city manager.
- (e) *Automatic Revocation:* At any time after a license has been issued under the provisions of this chapter, the same shall be automatically revoked by the local alcoholic beverage control administrator without the requirement of the hearing set forth immediately hereinabove, if the alcoholic beverage license is revoked by the state alcoholic beverage control board.
- (f) *Payment of Fines In Lieu of Suspension:* Upon proceedings for the revocation of any license issued under KRS Chapter 243 and this chapter, the alcoholic beverage control administrator, may, in his or her discretion, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the authority granted in this section. However, the licensee may have the alternative, subject to the approval of the alcoholic beverage control administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: distilled, rectifiers, vintners, brewers and blenders, one thousand dollars (\$1,000.00) per day; wholesale liquor licensees, four hundred dollars (\$400.00) per day; wholesale beer licensees, four hundred dollars (\$400.00) per day; retail licensees authorized to sell distilled spirits, wine or beer by the package or drink, fifty dollars (\$50.00) per day; and all remaining licensees, fifty dollars (\$50.00) per day. Payments in lieu of suspension collected by the administrator shall be deposited and used as local alcoholic beverage license fee receipts are deposited and used.
- (g) *Appeals from any order or decision of the alcoholic beverage control administrator may be taken to the state alcoholic beverage control board by filing with the board within thirty (30) days a certified copy of the order(s) of the city alcoholic beverage control administrator. Matters at issue shall be heard by the board as an original proceeding. Appeals from orders of the alcoholic beverage control administrator shall be governed by KRS Chapter 13B.*

(Ord. No. 16-2003, § 1, 4-15-2003; Ord. No. 50-2011, § 3, 12-6-2011)



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**Sec. 3-37. General penalties.**

Any person who violates any provision of this chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall for the first offense, be fined not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), or be imprisoned in the county jail for not more than six (6) months, or both; and for the second and each subsequent violation within a two-year period following the previous offense shall be fined not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) or be imprisoned in the county jail for not more than twelve (12) months, or both. If a person who violates any provision of this chapter is a corporation, partnership, joint stock company, association, fiduciary or other legal entity, then the president and/or principal officer, partner, manager or other person responsible for such violations may be punished by imprisonment as authorized by this section.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross reference**— Revocation of liquor license for violations pertaining to nude or nearly nude activities, § 3-11.

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FOOTNOTE(S):

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**Cross reference**— Licenses generally, Ch. 16. (Back)

Chapter 3

**ALCOHOLIC BEVERAGES\***

**Art. I.**           **In General, §§ 3-1—3-25**  
**Art. II.**           **Licenses, §§ 3-26—3-37**

**ARTICLE I. IN GENERAL**

**Sec. 3-1. Short title.**

This chapter shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Owensboro.  
(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-2. Definitions.**

All words and phrases used in this chapter, unless the context requires otherwise, shall have the same meanings as set forth in chapters 241, 242, 243 and 244 of the Kentucky Revised Statutes and Title 804, Kentucky Administrative Regulations, Chapter 1, et seq., as amended from time to time.  
(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-3. Scope.**

This chapter shall be construed to apply to the sale, transportation, storage, advertising and trafficking of malt beverages, distilled spirits and wine where the context permits such application.

Nothing contained in this chapter shall exempt or exonerate an owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinance or

\***Editor's note**—Ord. No. 16-2003, § 1, adopted Apr. 15, 2003, repealed the former Ch. 3, §§ 3-1—3-16, 3-26—3-37, and enacted a new Ch. 3 as set out herein. The former Ch. 3 pertained to similar subject matter. For complete derivation see the Code Comparative Table at the end of this volume.

**Cross references**—Regulation of adult entertainment establishments, § 16-251 et seq.; new off-premises commercial billboards prohibited, § 18-10.

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

ordinances of the city or of any statutes or administrative regulations of the state relating to the manufacture, sale, transportation, storage, advertising or trafficking of alcoholic beverages.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-4. Alcoholic beverage control administrator.**

(a) *Establishment of Office:* There is hereby established the office of "Alcoholic Beverage Control Administrator."

(b) *Appointment:* The city manager shall appoint an alcoholic beverage control administrator. The administrator may be removed from office at any time, with or without cause, by the city manager.

(c) *Compensation:* The compensation of the alcoholic beverage control administrator shall be established by the city manager, with the approval of the board of commissioners.

(d) *Oath; Bond:* The administrator, before entering upon the duties of the office, shall take the oath required of public officers and execute the surety bond in conformity with KRS 62.050, 62.060 and 241.180.

(e) *Duties of Administrator:* The functions of the city alcoholic beverage control administrator shall be the same with respect to the city licenses and regulations as the functions of the alcoholic beverage control board of the commonwealth with respect to state licenses and regulations.

- (1) The administrator shall perform all duties and functions within the corporate boundaries of Owensboro authorized and directed by KRS 241.190, and may adopt and promulgate any and all forms, rules and regulations reasonable and necessary to carry out the duties of the office. No rules or regulations adopted by the alcoholic beverage control administrator may be less stringent than the corresponding statutes relating to alcoholic beverage control, or than regulations adopted by the state alcoholic

beverage control board. No regulation of the city alcoholic beverage control administrator shall become effective until it has first been approved by the city manager.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross reference**—Officers generally, § 2-31 et seq.

**State law reference**—Alcoholic beverage control administrator, KRS 241.160 et seq.

**Sec. 3-5. Solicitation of sales through distribution of printed material.**

It shall be unlawful for a licensee, its employees, contractors or agents to solicit the sale of alcoholic beverages in person and through the distribution of flyers, circulars, cards or other printed media within the city; or engage in any other solicitation or advertising prohibited by KRS 244.280 and Kentucky Administrative Regulations 804 KAR (Chapters 1 and 2) as amended.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-6. Incentives promoting sales of alcoholic beverages prohibited.**

It shall be unlawful for any retail licensee under this chapter to give away or offer to give glasses, mugs, tee-shirts, posters or any other tangible item of value as an incentive, inducement, premium or prize, intended to promote the sale of alcoholic beverages.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-7. Books and records.**

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

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-8. Hours for the sale of alcoholic beverages established; prohibited hours for the sale of alcoholic beverages; Sunday sales in qualified establishments; penalty.**

(a) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).

(b) 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, including restaurants operated by, and located within, private clubs, 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.

(c) No alcoholic beverages of any kind may be sold on Sunday from 2:00 a.m. to 1:00 p.m., on any primary or regular election day while the polls are still open or on any other date, time or occasion when prohibited by federal or state law. A premises licensed for the sale of any alcoholic beverages is in compliance with this section of the Code if the licensee keeps all inventory of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, in a separate department which is secured by a lock during the periods of time in which the sale of alcoholic beverages is prohibited.

(d) In addition to required state licenses, all motels, hotels, restaurants and private clubs desiring to sell distilled spirits, wine or malt beverages by the drink or individual container on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the city, through the alcoholic beverage control administrator, for the Sunday sales of distilled spirits, wine or malt beverages by the drink, as required in section 3-31 of the Owensboro Municipal Code.

(e) *Rebuttable Presumption:* If any distilled spirits, wine or malt beverages are kept on the outside of the locked and closed-off department of any licensed premises during any period of time in which the licensee is prohibited by law from selling distilled spirits, wine or malt beverages, a rebuttable presumption shall arise that such distilled spirits, wine or malt beverages were kept on the outside of the locked and closed-off department with the intention and for the purpose of sale in violation of the law and shall be grounds for revocation or suspension of the license. (Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-9. Permitting intoxicated persons on licensed premises.**

No person holding a retail license for the sale of alcoholic beverages, shall permit any person to become intoxicated on the premises, nor shall any licensee permit any person who is intoxicated or appears to be under the influence of drugs and/or alcohol to remain on the licensed premises. (Ord. No. 16-2003, § 1, 4-15-2003)

State law reference—Sales to drunkards, etc., KRS 244.080.

**Sec. 3-10. Opening and consumption of alcoholic beverages on licensed premises.**

No person holding a retail license for the sale of alcoholic beverages shall permit any person other than employees of the licensee, to open any container of distilled spirits, wine or malt beverages, and no container of distilled spirits, wine or malt beverages shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license. (Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-11. Prohibition of nude or nearly nude activities on the premises of any business establishment licensed to sell or permit the consumption of any alcoholic beverages.**

(a) *Definitions:* As used in this section, these terms shall have the following meanings:

- (1) "Business establishment" shall mean business within the city where distilled spirits, wine and/or malt beverages

are sold by the drink for consumption on the premises pursuant to a retail distilled spirits, wine and/or malt beverage license that has been issued by the city.

- (2) "License" shall mean a retail drink distilled spirits, wine and/or malt beverage license issued by the city.
- (3) "Licensee" shall mean any person to whom a retail distilled spirits, wine and/or malt beverage by the drink license has been issued by the city, including the officers and agents of the licensee.
- (4) "The alcohol beverage control administrator" shall mean the duly appointed alcoholic beverage control administrator of the city.
- (5) "Occupational license" shall mean the occupational license issued to a business establishment pursuant to the city's occupational license ordinance.
- (6) "Person" shall mean a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.
- (7) "Premises" shall mean the land and building in and upon which any business establishment regulated by alcoholic beverage statutes, is carried on.
- (8) "Retail licensee" shall mean any licensee, including its officers, employee and/or agents, who sell at retail, any alcoholic beverage for the sale of which an occupational license is required.

(b) *Prohibited Activities:* It shall be unlawful for, and a person is guilty of, performing nude or nearly nude activity when that person appears on a business establishment's premises in such manner or attire as to expose to view any portion of the public area, anus, vulva, or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view the portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast

exhibited by a dress, blouse, shirt, leotard; bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

(c) *Licensees Permitting Nude or Nearly Nude Activities:* A licensee or retail licensee is guilty of permitting nude or nearly nude activity when, having control of the business establishment's premises, such licensee knowingly organizes, supervises, promotes, permits, acquiesces, or fails to make a reasonable and timely effort to halt or abate, any nude or nearly nude activity, as defined and prohibited in subsection (b), on said premises.

(d) *Penalties:*

- (1) Any person who violates subsections (b) and/or (c) shall be punished by a fine of up to two hundred fifty dollars (\$250.00) for each violation.
- (2) A second violation of subsections (b) and/or (c) above within a twelve-month period shall constitute class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.
- (3) Three (3) or more violations of subsections (b) and/or (c) within a twelve-month period shall constitute class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(e) *Revocation of Liquor License:*

- (1) In the event that a violation of subsections (b) and/or (c) of this section occurs, the alcoholic beverage control administrator shall forthwith conduct a hearing in conformity with section 3-36 of this chapter, to determine whether the alcoholic beverage licensee, at whose business establishment the activity prohibited by this section occurred, shall have its distilled spirits, wine and/or malt beverage licenses suspended or revoked.
- (2) In the event that three (3) or more violations of subsections (b) and/or (c) of this section occur at a business establishment within a twelve-month period, the alco-



holic beverage control administrator, after a hearing, shall revoke the retail drink liquor license or retail malt beverage liquor license or both.

(f) *Revocation of Occupational License:*

- (1) In the event that a violation of subsections (b) or (c) of this section occur, the city manager shall prefer charges against the retail licensee pursuant to the city's adult entertainment establishment ordinance, and after a notice and hearing before the board of commissioners as provided therein, said occupational license shall either be revoked or suspended.
- (2) In the event that three (3) or more violations of subsections (b) or (c) of this section occur at a business establishment within a twelve-month period, after notice and hearing as provided in the adult entertainment establishment ordinance provisions, the board of commissioners shall revoke the occupational license of the retail licensee.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross references**—Revocation or suspension of liquor license for violations of any laws pertaining to alcoholic beverage control, § 3-36; regulation of adult entertainment establishments, § 16-251 et seq.

**Secs. 3-12—3-25. Reserved.**

## ARTICLE II. LICENSES\*

### Sec. 3-26. Required.

(a) No person shall engage in any of the following businesses or activities within the city without first obtaining the required license from the city alcoholic beverage control administrator:

- (1) Retail sale of malt beverages by the package or drink;
- (2) Wholesale distribution of malt beverages;
- (3) Rectifier or blender of distilled spirits or wine;

\***Cross reference**—Licenses generally, Ch. 16.

- (4) The sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) or more people at tables, which facility receives fifty (50) percent or more of its gross annual income from food (KRS 243.032);
- (5) Wholesale distribution of distilled spirits or wine;
- (6) Retail sale of wine or distilled spirits by the package or drink;
- (7) Activities for which special temporary licenses are authorized by section[s] 3-31 and 3-32;
- (8) Operation of a private club, as defined in KRS 243.270, which traffics in distilled spirits, wine or malt beverages for consumption on the premises;
- (9) Retail sale of distilled spirits, wine, or malt beverages by a caterer as defined in KRS 243.033 and the Kentucky Administrative Regulations.
- (10) Retail sale of distilled spirits, wine or malt beverages from more than one (1) bar, counter or similar location under a single retail drink license.
- (11) Sunday sales of wine, distilled spirits and/or malt beverages by the drink in qualified hotels, motels and restaurants under KRS 244.290 and KRS 244.280.
- (12) Any other business or activity involving the manufacture, distribution or sale of alcoholic beverages for which a license is required under KRS 243.070.

(b) Any person violating any of the provisions of subsection (a) shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not more than five hundred dollars (\$500.00), or by imprisonment for up to thirty (30) days or both such fine and imprisonment. Each incident involving the manufacture, distribution or sale of alcoholic beverages without the required license shall constitute a separate offense.

(Ord. No. 16-2003, § 1, 4-15-2003)

**State law references**—Municipal licenses, KRS 243.070; penalties for violation of state liquor laws, KRS 243.990.

**Sec. 3-27. License application; public notice of intention to apply for license; approval.**

(a) *Definition:* For purposes of this section, "applicant" means any person, partnership (members thereof) or corporation (private officers and directors thereof).

(b) All applications for alcoholic beverage licenses established under this article shall be made in writing on forms provided by the city alcoholic beverage administrator. Application forms shall be consistent with those provided by the state with regard to applications for state licenses. No license established under this article shall be granted until the application has first been approved by the city administrator.

(c) The city alcoholic beverage administrator shall not issue a license authorized under this article to any applicant for the sale of alcoholic beverages within the city until public notice of the applicant's intention to apply for said license has been published pursuant to KRS 243.360, and proof of publication requirements therein has been submitted with the application for said license. (Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-28. Conditions for issuance of license; certain conduct and activities prohibited.**

All licensees who obtain any license established under this article shall comply with all state laws and city ordinances and regulations, including regulations adopted by the city alcoholic beverage control administrator, and said licenses shall be issued under the following conditions:

- (1) Every motel, hotel, restaurant and private club holding a license under this article shall be entitled to serve such beverages as the licensee is entitled to serve in a separate room or rooms at banquets or dinners or where meals are served; however, no motel, hotel, restaurant or private club shall maintain or operate or permit to be operated more than one (1) bar or room where alcoholic beverages are sold and which is opened to the general public without first obtaining a separate or supplemental bar license with respect thereto, as authorized under this article.

- (2) Each licensed premises shall at all times be conducted in an orderly manner; and no disorderly or riotous conduct shall be allowed at any time on any licensed premises; and no nuisance shall be suffered, permitted or maintained thereon.
- (3) No gambling, dice, slot machines, gambling device or other games of chance shall be permitted in any form on or about any licensed premises, unless otherwise authorized by state statute.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-29. Payment of delinquent taxes; prerequisite to issuance of license.**

No license to sell alcoholic beverages shall be issued to any person, corporation, company, association or other entity that does not have a valid business license or has failed to file the requisite occupational license fee return required in chapter 16 of the Owensboro Municipal Code; or who is delinquent by law in the payment of any real or personal ad valorem taxes or any net profits or occupational license fees due to the city at the time of application for an original license or at the time of issuance of a renewal license, nor shall a license be issued to, or renewed for, any person who intends to sell alcoholic beverages on any premises or property owned, leased or occupied by the licensee, upon which there are any such delinquent taxes due the city. If any taxes or fees due the city for any taxing year or period prior to the date of the application for, or renewal of, a license are unpaid and delinquent upon the property or premises for which an alcoholic beverage license is sought, the alcoholic beverage control administrator shall not approve the license until he or she first receives from the director of finance a written statement verifying that the applicant for the license has paid the delinquent taxes or made satisfactory arrangements with the director of finance for the payment of same.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-30. Expiration date; date fees due and payable.**

All licenses, except special temporary licenses, issued under this chapter shall expire on June 30 of each year, and the fees therefor shall be due and payable prior to July 1 of each year. (Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-31. Fees generally.**

(a) Pursuant to KRS 243.070, the city hereby imposes the following fees for the alcoholic beverage licenses authorized in section 3-26 of article II:

- (1) Retail sale of malt beverages, seventy-five dollars (\$75.00);
- (2) Wholesale distribution of malt beverages, two hundred dollars (\$200.00);
- (3) Rectifier or blender of distilled spirits or wine, five hundred dollars (\$500.00);
- (4) Retail sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross annual income from the sale of food (KRS 243.032), three hundred dollars (\$300.00);
- (5) Wholesale distribution of distilled spirits or wine, seven hundred fifty dollars (\$750.00);
- (6) Retail sale of wine or distilled spirits, six hundred dollars (\$600.00);
- (7) License for sale of distilled spirits and wine by the package, six hundred dollars (\$600.00);
- (8) Private clubs, as defined in KRS 243.270, which offer for sale malt beverages, distilled spirits and wine for consumption on the premises within the corporate boundaries of the city, be required to obtain an annual license from the city, three hundred dollars (\$300.00);
- (9) The sale of distilled spirits and wine by the drink on Sunday, three hundred dollars (\$300.00);
- (10) Extended hours supplemental license, per annum, six hundred dollars (\$600.00);

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- (11) Caterer's license, per annum, one hundred dollars (\$100.00).
- (12) Supplemental bar license, six hundred dollars (\$600.00);
- (13) Any other special license authorized by KRS 243.070 deemed necessary and appropriate by the alcoholic beverage control administrator for the proper regulation and control of the sale of distilled spirits and wine, as provided for by law or regulation. In establishing the amount of the fee by regulation, the alcoholic beverage control administrator shall give due regard to the value of the privilege granted and the cost of regulating same. No fee established hereunder shall become effective until it has been approved by the city manager.

(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(c) The license fees set forth hereinabove shall be paid at the time the application therefor shall be made and the license issued as herein provided for. If any license is revoked or suspended, or canceled for any reason by the city alcoholic beverage control administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by licensee upon the issuance of the license.

(d) When any person is issued a license required by this article after July 1 of any fiscal year, he shall be charged a license fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the fiscal year, including the month in which the license is granted until the following July 1; except that no license shall be issued for a shorter period than six (6) months. No proration of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(e) Should any person licensed to conduct any of the business authorized under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the commonwealth with reference to alcoholic beverages, the city shall refund to him the proportionate part of the license fee for the period during which the licensee is prevented from carrying on the business activity.

(f) All fees from licenses issued under this chapter shall be collected by the city alcoholic beverage control administrator and turned over to the director of finance on a monthly basis for deposit in the general fund of the city.

(Ord. No. 16-2003, § 1, 4-15-2003)

State law reference—Municipal license fees, KRS 243.070.

### **Sec. 3-32. Special temporary licenses.**

(a) All applications for special temporary licenses authorized under KRS Chapter 243 shall be on forms provided by the alcoholic beverage control administrator and shall be filed with the administrator at least thirty (30) days prior to the date of the event for which the license is requested.

(b) The city alcoholic beverage administrator may, in his or her discretion, approve all distilled spirits and/or wine and malt beverage special temporary licenses within the city when in the sole discretion of the city administrator, the necessity therefor has been established. Necessity is established when the license is to be issued to any regularly organized fair, racing association for a particular fair, race, race meeting conducted by an association, exposition, picnic, bazaar, carnival, non-profit organization, political campaign function or for-profit individual, corporation, or organization, when used in conjunction with and as a part of, an organized charitable, civic or community-sponsored event.

(c) The provisions in subsection (a) hereinabove notwithstanding, distilled spirits, wine and/or malt beverage special temporary licenses may be refused by the city alcoholic beverage administrator for any reason which the administrator, in the exercise of

his or her sound discretion, deems sufficient, as provided in KRS 243.450. Among those factors that the administrator shall consider in the exercise of his or her discretion are:

- (1) The nature, theme, orientation and duration of the organized charitable, civic or community-sponsored event; the day(s) of the week and hours each day of the special event during which alcoholic beverages are proposed to be sold;
- (2) Whether or not the charitable, civic or community-sponsored event has been permitted by the city's special events committee; and applicant's membership, affiliation with or participation in, the approved special event;
- (3) The impact, if any, on public health, safety and welfare;
- (4) The impact, if any, of the special event on pedestrian and vehicular traffic and traffic flow;
- (5) The disruption of and inconvenience to affected residences and businesses;
- (6) The number of premises licensed for the sale of alcoholic beverages that are located within or in close proximity to the boundaries of the proposed event;
- (7) The impact, if any, of the special community event on the local economy; and
- (8) The proximity of the special community event to churches, schools, child care or other facilities, parks or venues primarily utilized by minors;
- (9) Those factors set forth in KRS 243.450(2).

(d) The city alcoholic beverage administrator shall not issue a special temporary alcoholic beverage license in conjunction with any organized charitable, civic, or community-sponsored event if:

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



- (3) The applicant has done any act for which a revocation of license would be authorized; or
- (4) The applicant has made any false material statement in his application.

(e) Any license issued under this section shall authorize the licensee to exercise the privileges granted therein in accordance with the terms, conditions and limitations established by the administrator, on the designated premises, for a period of time not to exceed ten (10) consecutive days or a total of thirty (30) days within a twelve-month period.

(f) If the city alcoholic beverage administrator shall, in his or her discretion, refuse to issue a distilled spirits, wine and/or malt beverage special temporary license, a written notice of denial shall be mailed to the applicant within ten (10) working days after the filing of the application and submission of any supporting information requested by the administrator, which notice shall set forth the reasons for the denial.

(g) The alcoholic beverage administrator is hereby authorized and directed to impose a license fee of one hundred sixty-six dollars and sixty-six cents (\$166.66), per event, for each distilled spirits and wine special temporary license, a fee of fifty dollars (\$50.00) for each special temporary wine license, and a fee of twenty-five dollars (\$25.00), per event, for each malt beverage special temporary license issued.

(h) The alcoholic beverage administrator is authorized to adopt any and all rules and regulations necessary and appropriate for the issuance of special temporary licenses provided in this section.

(Ord. No. 16-2003, § 1, 4-15-2003)

State law reference—Limitation on fee, KRS 243.040.

### **Sec. 3-33. Lost or destroyed licenses.**

If a license is lost or destroyed without fault on the part of the licensee, his agents or employees, a duplicate in lieu of the

original license, shall be issued by the city alcoholic beverage control administrator upon payment of a duplicate license fee in the amount of ten dollars (\$10.00).

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-34. No transfer or assignment of license without authorization prohibited.**

No license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 and 243.650. If transfers or assignments are approved by the city alcoholic beverage control administrator, they shall not be issued until a payment of twenty-five dollars (\$25.00) is made to the director of finance.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-35. Mandatory responsible beverage service training; standards for certification.**

(a) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the city manager of the city or the city manager's designee. Before approval is granted, the city manager or his designee shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The city shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.

(b) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by the city for the sale of alcoholic beverages shall require all their employees who are

engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the city manager of the city or the city manager's designee.

(c) Subsections (a) and (b) above shall not apply to any manufacturer of alcoholic beverages as this term is defined in KRS 241.010(29) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(d) *Standards for Certification.* The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:

- (1) Pertinent federal, state and local laws related to the sale of alcohol;
- (2) Verification of age, forms of identification and usual methods of false or misleading age identification;
- (3) The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
- (4) Recognition of the signs of intoxication;
- (5) Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
- (6) The licensee's policies and guidelines, including the employee's role in observing those policies; and
- (7) Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

(e) All persons required to undergo the training set forth in subsection (a) above shall complete same within one hundred twenty (120) days of the effective date of this section. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60)

days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the city manager or his designee under the foregoing criteria not less than once every three (3) years thereafter.

(f) *Personnel Certification Records.* Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this section. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the alcoholic beverage control administrator, all licensees and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

(g) *Penalties:*

- (1) No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.
  - (2) Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this section, shall upon conviction thereof, be fined in an amount not to exceed one hundred dollars (\$100.00); for subsequent violations within a two-year period and upon conviction thereof, a fine not to exceed five hundred dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.
- (Ord. No. 1-2004, § 1, 2-17-2004)

**Sec. 3-36. Revocation or suspension of license.**

(a) Any alcoholic beverage license issued under this chapter may be revoked or suspended by the alcoholic beverage control administrator for any cause or reason set forth in KRS 243.450, 243.490 and/or 243.500, as well as for violation of any city ordinance regarding alcoholic beverage licensing, sales or administrative regulations pertaining thereto promulgated by the local administrator.

(b) A violation of any of the provisions of this chapter or any amendment thereof, by an employee or duly authorized agent of a licensee shall constitute a violation by the licensee.

(c) It shall be the duty of the chief of police to report in writing to the city alcoholic beverage control administrator any violation of state law or this chapter or any amendment thereto, or of any rules or regulations duly adopted by the administrator, that are observed by members of the Owensboro Police Department. When any licensee shall violate any such statute, ordinance or other provisions of this chapter relating to the sale or consumption of alcoholic beverages, 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 city alcoholic beverage control administrator is hereby authorized to initiate proceedings to suspend or revoke any license issued under this chapter.

(d) *Suspension / Revocation; Notice of Violation; Hearing:* The local alcoholic beverage administrator may initiate proceedings to suspend or revoke a license issued under this chapter by serving the licensee with a written "notice of violation" setting forth the reasons for the suspension or revocation and notifying licensee of the date, time and place of a hearing to be held by the local administrator, or some other person designated by him or her for that purpose, on the alleged violation(s). The notice requirements of this section are satisfied if the administrator sends the "notice of violation" to the licensee's last known address according to the license records on file. The "notice of violation" required herein

shall be personally served on or sent to the licensee at his or her last known address at least seven (7) days prior to the date on which the hearing is to be held. At the hearing, the licensee shall be given the opportunity to "show cause" why his or her license should not be suspended or revoked, as the case may be. The licensee shall also be entitled to be represented by legal counsel, shall be entitled to examine the evidence in support of the alleged violation(s), may cross examine witnesses and submit evidence on the licensee's behalf. The administrator or designated hearing Officer shall not be bound by formal rules of evidence and may admit hearsay evidence under appropriate circumstances. At the conclusion of the hearing, or within a reasonable time thereafter, the administrator or his or her designee shall issue an order either dismissing the "notice of violation", suspending the license for a designated time period or revoking the license in its entirety. At the conclusion of the hearing, or within a reasonable time thereafter, the administrator or his designee shall issue findings of fact and conclusions of law to support its decision and a copy of

same shall be mailed to the licensee in question. A copy of the decision of the administrator or his designee shall be submitted to the city manager.

(e) *Automatic Revocation:* At any time after a license has been issued under the provisions of this chapter, the same shall be automatically revoked by the local alcoholic beverage control administrator without the requirement of the hearing set forth immediately hereinabove, if the alcoholic beverage license is revoked by the state alcoholic beverage control board.

(f) *Payment of Fines in Lieu of Suspension:* Upon proceedings for the revocation of any license issued under KRS Chapter 243 and this chapter, the alcoholic beverage control administrator, may, in his or her discretion, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the authority granted in this section. However, the licensee may have the alternative, subject to the approval of the alcoholic beverage control administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: distilled, rectifiers, vintners, brewers and blenders, one thousand dollars (\$1,000.00) per day; wholesale liquor licensees, four hundred dollars (\$400.00) per day; wholesale beer licensees, four hundred dollars (\$400.00) per day; retail licensees authorized to sell distilled spirits, wine or beer by the package or drink, fifty dollars (\$50.00) per day; and all remaining licensees, fifty dollars (\$50.00) per day. Payments in lieu of suspension collected by the administrator shall be deposited and used as local alcoholic beverage license fee receipts are deposited and used.

(g) Appeals from any order or decision of the alcoholic beverage control administrator may be taken to the state alcoholic beverage control board by filing with the board within thirty (30) days a certified copy of the order(s) of the city alcoholic beverage control administrator. Matters at issue shall be heard by the board as an original proceeding. Appeals from orders of the alcoholic beverage control administrator shall be governed by KRS Chapter 13B.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Sec. 3-37. General penalties.**

Any person who violates any provision of this chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall for the first offense, be fined not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), or be imprisoned in the county jail for not more than six (6) months, or both; and for the second and each subsequent violation within a two-year period following the previous offense shall be fined not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) or be imprisoned in the county jail for not more than twelve (12) months, or both. If a person who violates any provision of this chapter is a corporation, partnership, joint stock company, association, fiduciary or other legal entity, then the president and/or principal officer, partner, manager or other person responsible for such violations may be punished by imprisonment as authorized by this section.

(Ord. No. 16-2003, § 1, 4-15-2003)

**Cross reference**—Revocation of liquor license for violations pertaining to nude or nearly nude activities, § 3-11.



ORDINANCE 48-2002

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ORDINANCE AMENDING CHAPTER 3, ARTICLE I, SECTION 3-9 OF THE OWENSBORO MUNICIPAL CODE ENTITLED "HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES ESTABLISHED" AND AMENDING ARTICLE II, SECTION 3-31 ENTITLED "FEES GENERALLY" TO PROVIDE FOR THE SALE OF DISTILLED SPIRITS, WINE AND MALT BEVERAGES BY THE DRINK ON SUNDAYS FROM 1:00 P.M. UNTIL 11:00 P.M., BY HOTELS, MOTELS AND RESTAURANTS, INCLUDING RESTAURANTS OPERATED BY PRIVATE CLUBS, WHICH ARE LICENSED FOR THE RETAIL SALE OF ALCOHOLIC BEVERAGES 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 PERCENT (50%) OR MORE OF THEIR GROSS ANNUAL INCOME FROM THEIR DINING FACILITIES BY THE SALE OF FOOD; AND IMPOSING AN ANNUAL LICENSE FEE OF THREE HUNDRED DOLLARS (\$300.00) FOR THE SALE OF DISTILLED SPIRITS AND WINE BY THE DRINK.

**WHEREAS**, Chapter 3, Article I, Section 3-9 of the Owensboro Municipal Code presently allows any premises for which a license has been granted to sell distilled spirits and wine and/or malt beverages, to remain open for business from 6:00 a.m. until 2:00 a.m., Monday through Saturday, prevailing time; and

**WHEREAS**, the aforementioned section of the Code prohibits the sale of any alcoholic beverages from 2:00 a.m. on Sunday until 6:00 a.m. on Monday; and

**WHEREAS**, KRS 244.290(3) and (4) authorizes first and second class cities in which the sale of distilled spirits and wine is permitted, by duly adopted ordinance, to allow the sale of distilled spirits and wine by the drink on Sunday from 1:00 p.m. until a closing hour to be established by the Board of Commissioners, by hotels, motels and restaurants, including restaurants operated by and located within private clubs, which are licensed for the retail sale of 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 percent (50%) or more of their gross annual income from their dining facilities from the sale of food; and

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**WHEREAS**, KRS 244.480 grants second class cities that permit the sale of malt beverages, to establish the times in which malt beverages may be sold within their corporate boundaries Sunday through Monday, provided that the delivery, gift or sale of malt beverages is not prohibited between 6:00 a.m. and midnight during any day, except Sunday; and further provided that the sale of malt beverages is prohibited on any primary or regular election day during the hours the polls are open.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That Chapter 3, Article 1, Section 3-9 of the Owensboro Municipal Code, entitled "Hours for the Sale of Alcoholic Beverages Established," is hereby amended and shall hereafter read as follows:

"Sec. 3-9. Hours for the sale of alcoholic beverages established.

~~Premises for which a license has been granted to sell distilled spirits and wine and/or malt beverages, may remain open for business daily from 6:00 a.m. until 2:00 a.m. prevailing time, except that no sale of alcoholic beverages may be made from from 2:00 a.m. on Sunday until 6:00 a.m. on Monday or when prohibited by state statute; provided, that if a licensee provides on his licensed premises a separate department in which is kept all stocks of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, which department is kept locked during the periods in which sale of alcoholic beverages is not permitted, he shall be deemed to have complied with this section.~~

1. All premises for which a license has been granted by the Commonwealth of Kentucky and the City of Owensboro, Kentucky, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).

2. 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, including restaurants operated by, and located within, private clubs, 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 percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

3. No alcoholic beverages of any kind may be sold on Sunday from 2:00 a.m. to 1:00 p.m., on any primary or regular Election Day while the polls are still open or on any other date, time

or occasion when prohibited by federal or state law. A premises licensed for the sale of any alcoholic beverages is in compliance with this section of the Code if the licensee keeps all inventory of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, in a separate department which is secured by a lock during the periods of time in which the sale of alcoholic beverages is prohibited.

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4. In addition to required state licenses, all motels, hotels, restaurants and private clubs desiring to sell distilled spirits, wine or malt beverages by the drink or individual container on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the City of Owensboro, through the Alcoholic Beverage Control Administrator, for the Sunday sales of distilled spirits, wine or malt beverages by the drink, as required in Section 3-31 of the Owensboro Municipal Code."

**Section 2.** That Chapter 3, Article II, Section 3-31 of the Owensboro Municipal Code, entitled "Fees Generally," is hereby amended and shall hereafter read as follows:

"Sec. 3-31. Fees generally.

(a) The following annual fees which shall be paid to the city City of Owensboro for the alcoholic beverage licenses listed below: shall be as shown below follows:

- (1) Retail dealer of malt beverages, seventy-five dollars (\$75.00);
- (2) Distributor of malt beverages, two hundred dollars (\$200.00);
- (3) Rectifier or blender of distilled spirits or wine, five hundred dollars (\$500.00);
- (4) Selling wine at a restaurant facility which has a seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross income from food (KRS 243.032), three hundred dollars (\$300.00);
- (5) Wholesaler of distilled spirits or wine, seven hundred fifty dollars (\$750.00);
- (6) ~~Retailer~~ Retail sale of wine or distilled spirits, six hundred dollars (\$600.00);
- (7) License for sale of distilled spirits and wine by the package, six hundred dollars (\$600.00);
- ~~(7)~~ (8) Private club, as defined in KRS 243.270, which traffics in malt beverages, distilled spirits and wine for consumption on the premises within the corporate boundaries of the city, be required to obtain an annual license from the city, no fee three hundred dollars (\$300.00);
- ~~(8)~~ (9) The sale of distilled spirits and wine by the drink on Sunday, three hundred dollars (\$300.00);

10. Extended hours supplemental license,  
per annum, six hundred dollars (\$600.00).

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11. Caterer's license, per annum, one hundred  
Dollars (\$100.00).

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(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(c) The proportionate part of the license fee prescribed shall be paid in advance at the time the application therefor shall be made and the license issued as herein provided for. If any license is revoked or canceled for any reason by the city alcoholic beverage administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by him upon the issuing of the license.

(d) When any person applies for a license required or authorized by this article after July 1 of any year, he shall be charged, if the license is issued, a license fee equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted until the following July 1; except that no license shall be issued for a shorter period than six (6) months. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(e) Should any person after obtaining a license to carry on any of the businesses mentioned under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the state with reference to intoxicating liquors, then the city shall refund to him the proportionate part of the license for the period during which he is prevented from carrying on the business.

(f) All license fees from licenses issued under this chapter shall be collected by the city alcoholic beverage administrator.

**Section 3.** All prior ordinances or parts thereof, in conflict with the provisions of this ordinance, are to the extent of any such conflict, hereby repealed.

**Section 3.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this 6th day of August, 2002.

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON 2002 AUG 23 A 9:33

SECOND READING, this 20th day of August, 2002.

*Waymond Morris*  
Waymond P. Morris, Mayor

ATTEST:

*Carol Blake*  
Carol Blake, City Clerk

CERTIFICATION

I, Carol Blake, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 48-2002, duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on August 20, 2002, the original of which is on file in the Office of the City Clerk, this 22nd day of August, 2002.

*Carol Blake*  
Carol Blake, City Clerk

Chapter 3

**ALCOHOLIC BEVERAGES\***

- Art. I. In General, §§ 3-1-3-25  
Art. II. Licenses, §§ 3-26-3-37

**ARTICLE I. IN GENERAL**

**Sec. 3-1. Short title.**

This chapter shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Owensboro.  
(Code 1955, § 3-1)

**Sec. 3-2. Definitions.**

The definitions, whenever used in this chapter, unless the context requires otherwise, shall have the same meanings as set out in the Kentucky Alcoholic Beverage Control Law (chapters 241, 242 and 244, Kentucky Revised Statutes) and all amendments and supplements thereto.  
(Code 1955, § 3-2)

**Sec. 3-3. Scope.**

This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinance or ordinances of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.  
(Code 1955, § 3-3)

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\*State law reference--Alcoholic beverages, KRS chs. 241-244.

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**Sec. 3-4. Alcoholic beverage control administrator.**

(a) *Appointment:* The board of commissioners shall appoint an alcoholic beverage control administrator.

(b) *Salary:* The salary for the office shall be fixed from time to time by the board of commissioners.

(c) *Oath; Bond:* The administrator, before entering upon his duties as such, shall take the oath as prescribed in section 228 of the state constitution and shall execute a bond with a good 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 KRS 62.060 and 241.180.

(Code 1955, § 3-6)

*Cross reference—Officers generally, § 2-31 et seq.*

*State law reference—Alcoholic beverage control administrator, KRS 241.160 et seq.*

**Sec. 3-5. Price advertising restrictions.**

No sign of any kind advertising the price of alcoholic beverages shall be printed on the exterior or so as to be visible from the exterior of any premises licensed for the sale of alcoholic beverages at retail; however, any alcoholic beverages 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 1955, § 3-8)

**Sec. 3-6. Handbills, circulars and cards.**

It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

(Code 1955, § 3-9)

**Sec. 3-7. Prizes.**

It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to 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 1955, § 3-10)

**Sec. 3-8. 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 city alcoholic beverage administrator or any of his authorized representatives.

(Code 1955, § 3-11)

State law reference—Similar provisions, KRS 244.150.

**Sec. 3-9. Hours for the sale of alcoholic beverages established.**

Premises for which a license has been granted to sell distilled spirits and wine and/or malt beverages, may remain open for business daily from 6:00 a.m. until 2:00 a.m. prevailing time, except that no sale of alcoholic beverages may be made from 2:00 a.m. on Sunday until 6:00 a.m. on Monday or when prohibited by state statute; provided, that if a licensee provides on his licensed premises a separate department in which is kept all stocks of alcoholic beverages and all apparatus connected with the sale of alcoholic beverages, which department is kept locked during the periods in which sale of alcoholic beverages is not permitted, he shall be deemed to have complied with this section.

(Code 1955, § 3-35)

**Sec. 3-10. Dancing on premises licensed to sell alcoholic beverages.**

(a) *License Required:* Dancing shall not be permitted on any premises within the city for which an alcoholic beverage license is held unless a dancing license is obtained from the city for the premises.

(b) *Application for License:* Applications for dancing licenses shall be in writing, be signed by the person holding the alcoholic



beverage license for the premises for which the license is applied or, in the case the applicant is a corporation, by the directors of the corporation, and designate the area of the premises which is proposed to be used for dancing. All applications for dancing licenses shall be filed with the alcoholic beverage control administrator.

(c) *Inspection of Premises:* Upon receipt for an application for a dancing license, the alcoholic beverage control administrator of the city shall refer the same to the building inspector and the fire chief. No dancing license shall be issued until:

- (1) The building inspector of the city shall have inspected the premises to be licensed and found that portion of the premises to be used for dancing to be structurally safe to accommodate a dance floor.
- (2) The fire chief shall inspect the premises and find the same to meet all state and city fire regulations.

(d) *Issuance of License:* Upon approval of the building inspector and fire chief endorsed on the application filed with the alcoholic beverage control administrator, the alcoholic beverage control administrator shall issue a dancing license upon payment to the city of a license tax fee hereinafter prescribed.

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

- (1) Every licensed premises shall at all times be conducted in an orderly manner; and no disorderly or riotous conduct shall be allowed at any time on any licensed premises; and no nuisance shall be suffered, permitted or maintained thereon.
- (2) The license shall authorize dancing only on the premises of the license holder in the area designated in the application as a dance floor, except, upon approval of the alcoholic beverage control administrator, the dance floor may be moved from one part of the premises to another.

(f) *License Fee; Amount:* The annual license tax fee for a dancing license shall be the sum of two hundred fifty dollars (\$250.00).

(g) *Expiration of Licenses; When Fees Due and Payable:* All licenses issued under this section shall expire on June 30 of each

year, and the fees therefor shall be due and payable on July 1 of each year.

(h) *Proration, Abatement of Fees:* When any person applies for a dancing license after July 1 of any year, he shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fees as there are calendar months, including the month in which the license is granted until the following July 1, except that no license shall be issued for a shorter period than six (6) months. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(i) *Forfeiture of License Fees Upon Cancellation, Revocation of License:* The proportionate part of the license fee prescribed shall be paid in advance at the time the application therefor shall be made and the license issued as herein provided for. If any license issued hereunder shall be revoked or cancelled for any reason by the city alcoholic beverage administrator, the licensee shall forfeit any and all claims which the licensee might otherwise have had to any portion of the license fee paid by the licensee upon the issuing of the license.

(j) *Collection of Fees:* All license fees from licenses issued under this section shall be collected by the city treasurer or the alcoholic beverage administrator.

(k) *Assignment of License:* No assignment of any license issued under this section shall be made except by order of any court of competent jurisdiction and with the approval of the city alcoholic beverage administrator.

(l) *Revocation of License:* A dancing license may be revoked by the alcoholic beverage control administrator for the violation of any provisions of any ordinances of the city relating to dancing or for any other cause for which a license to sell alcoholic beverages could be revoked.  
(Code 1955, § 3-12)

**Sec. 3-11. Permitting intoxicated persons on licensed premises.**

No person who holds a license to dispense any alcoholic beverage shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(Code 1955, § 3-13)

State law reference—Sales to drunkards, etc., KRS 244.080.

**Sec. 3-12. Opening of and drinking from bottles on licensed premises.**

No person licensed to sell alcoholic beverages at retail shall permit any person or persons, other than employees of the licensee, to open any bottle of distilled spirits, wine or malt beverages, and no container of distilled spirits or wine shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license.

(Code 1955, § 3-14)

**Sec. 3-13. Beverages found outside locked compartment during hours sale prohibited; presumption of violation; penalty; confiscation.**

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

(Code 1955, § 3-15)

State law reference—Similar provisions, KRS 244.290.

**Sec. 3-14. Prohibition of nude or nearly nude activities on the premises of any business establishment licensed to sell or permit the consumption of any alcoholic beverages.**

(a) *Definitions.* As used in this section, these terms shall have the following meanings:

- (1) "Business establishment" shall mean a business within the city where liquor, beer and/or wine is sold for consumption on the premises pursuant to a retail drink liquor license and/or retail malt beverage liquor license that has been issued by the city.
- (2) "License" shall mean a retail drink liquor license or a retail malt beverage liquor license issued by the city.
- (3) "Licensee" shall mean any person to whom a retail drink liquor license or retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.
- (4) "The alcohol beverage control administrator" shall mean the duly appointed alcoholic beverage control administrator of the City of Owensboro.
- (5) "Occupational license" shall mean the occupational license issued to a business establishment pursuant to the city's occupational license ordinance.
- (6) "Person" shall mean a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.
- (7) "Premises" shall mean the land and building in and upon which any business establishment regulated by alcoholic beverage statutes, is carried on.
- (8) "Retail licensee" shall mean any licensee, including its officers, employees and/or agents, who sell at retail, any alcoholic beverage for the sale of which an occupational license is required.

(b) *Prohibited Activities.* It shall be unlawful for, and a person is guilty of, performing nude or nearly nude activity when that person appears on a business establishment's premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals, or any simulation thereof, or when any female appears on a business establishment's premises in such manner or attire as to expose to view the portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

(c) *Licensees Permitting Nude or Nearly Nude Activities:* A licensee or retail licensee is guilty of permitting nude or nearly nude activity when, having control of the business establishment's premises, such licensee knowingly organizes, supervises, promotes, permits, acquiesces, or fails to make a reasonable and timely effort to halt or abate, any nude or nearly nude activity, as defined and prohibited in subsection (b), on said premises.

(d) *Penalties.*

- (1) Any person who violates subsections (b) and/or (c) shall be punished by a fine of up to two hundred fifty dollars (\$250.00) for each violation.
- (2) A second violation of subsections (b) and/or (c) above within a twelve-month period shall constitute a class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.
- (3) Three (3) or more violations of subsections (b) and/or (c) within a twelve-month period shall constitute a class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(e) *Revocation of Liquor License.*

- (1) In the event that a violation of subsections (b) and/or (c) of this section occurs, the alcoholic beverage control administrator shall forthwith conduct a hearing pursuant to Ken-

tucky Revised Statute 243.520, in conjunction with Kentucky Revised Statute 241.160 and 241.190, to determine whether the liquor licensee, at whose business establishment the activity prohibited by this section occurred, shall have its liquor license suspended or revoked.

- (2) In the event that three (3) or more violations of subsections (b) and/or (c) of this section occur at a business establishment within a twelve-month period, the alcoholic beverage control administrator, after a hearing, shall revoke the retail drink liquor license or retail malt beverage liquor license or both.

(f) *Revocation of Occupational License.*

- (1) In the event that a violation of subsections (b) or (c) of this section occur, the city manager shall prefer charges against the retail license pursuant to the city's adult entertainment establishment ordinance, and after a notice and hearing before the board of commissioners as provided therein, said occupational license shall either be revoked or suspended.
- (2) In the event that three or more violations of subsections (b) or (c) of this section occur at a business establishment within a twelve-month period, after notice and hearing as provided in the adult entertainment establishment ordinance provisions, the board of commissioners shall revoke the occupational license of the retail licensee.

(Ord. No. 50-93, §§ 1-7, 9-21-93)

**Cross references**—Revocation or suspension of liquor license for violations of any laws pertaining to alcoholic beverage control, § 3-37; regulation of adult entertainment establishments, § 16-251 et seq.

**Secs. 3-15-3-25. Reserved.**

**ARTICLE II. LICENSES\*****Sec. 3-26. Required.**

(a) No person shall engage in any of the following businesses or activities without obtaining a license from the city alcoholic beverage administrator:

- (1) Retail dealer of malt beverages;
- (2) Distributor of malt beverages;
- (3) Rectifier or blender of distilled spirits or wine;
- (4) Selling wine at a restaurant facility which has a seating capacity of fifty (50) or more people at tables, which facility receives fifty (50) percent or more of its income from food (KRS 243.032);
- (5) Wholesaler of distilled spirits or wine;
- (6) Retailer of wine or distilled spirits;
- (7) Activities for which special temporary licenses are authorized by section 3-32;
- (8) Operation of a private club, as defined in KRS 243.270, which traffics in distilled spirits and wine for consumption on the premises.

(b) Any person violating any of the provisions of subsection (a) shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not more than five hundred dollars (\$500.00), or by imprisonment for up to thirty (30) days or both such fine and imprisonment. Each sale without the required license shall constitute a separate offense.

(Code 1955, §§ 3-44—3-47)

**State law references**—Municipal licenses, KRS 243.070; penalties for violation of state liquor laws, KRS 243.990.

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\*Cross reference—Licenses generally, Ch. 16.

**Sec. 3-27. Application; approval.**

(a) The city alcoholic beverage administrator shall not approve any application for an original license to sell alcoholic beverages until after the applicant shall have caused to be published in a newspaper of general circulation in the city at least once before such application is filed a concise advertisement stating the name and address of the applicant as well as the name and address of the business and the type of the license applied for.

(b) All licenses granted under this article shall be approved by the city alcoholic beverage administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon forms provided by the city alcoholic beverage administrator for that purpose. Application forms shall be identical as to form and content with those provided by the state for applications for state licenses.

(Code 1955, § 3-23)

**Sec. 3-28. Conditions for granting.**

All licenses granted under this article shall be granted subject to the following conditions and all other conditions of other ordinances and regulations of the city applicable thereto and all rules and regulations duly adopted by the city alcoholic beverage administrator:

- (1) Every hotel and private club that procures a license under this article shall be entitled to serve such beverages as such license holder is entitled to serve 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 (1) bar or room where alcoholic beverages are sold 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 or riotous conduct shall be allowed at any time on any licensed premises; and



no nuisance shall be 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 device of chance are prohibited and shall not be kept on such premises.
- (4) It shall be unlawful for any licensee licensed under this article to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from the police radio station as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the chief of police or the city alcoholic beverage administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(Code 1955, § 3-24)

**Sec. 3-29. Payment of delinquent taxes prerequisite to issuance.**

No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the city at the time of issuing the license; nor shall any license be granted to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes due the city. In such cases, if taxes due the city for any taxing period prior to the date of application for a license are unpaid and delinquent upon the property or premises upon which a license to sell is sought, the alcoholic beverage administrator may, in his discretion, approve a license to sell after receiving from the city treasurer a written statement to the effect that the applicant for the license has paid or has made arrangements with the city treasurer, satisfactory to him for taking care of the indebtedness represented by the unpaid and delinquent taxes above referred to. This section shall apply only to taxes which are due and payable by the licensee.

(Code 1955, § 3-25)

**Sec. 3-30. Expiration date; date fees due and payable.**

All licenses, except special temporary licenses, issued under

this chapter shall expire on June 30 of each year, and the fees therefor shall be due and payable on July 1 of each year.  
(Code 1955, § 3-26)

**Sec. 3-31. Fees generally.**

(a) The fees which shall be paid to the city for the alcoholic beverage licenses listed below shall be as shown below:

- (1) Retail dealer of malt beverages, seventy-five dollars (\$75.00);
- (2) Distributor of malt beverages, two hundred dollars (\$200.00);
- (3) Rectifier or blender of distilled spirits or wine, five hundred dollars (\$500.00);
- (4) Selling wine at a restaurant facility which has a seating capacity of fifty (50) people at tables and which receives fifty (50) percent or more of its gross income from food (KRS 243.032), three hundred dollars (\$300.00);
- (5) Wholesaler of distilled spirits or wine, seven hundred fifty dollars (\$750.00);
- (6) Retailer of wine or distilled spirits, six hundred dollars (\$600.00);
- (7) Private club, as defined in KRS 243.270, which traffics in distilled spirits and wine for consumption on the premises within the corporate boundaries of the city, be required to obtain an annual license from the city, no fee.

(b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(c) The proportionate part of the license fee prescribed shall be paid in advance at the time the application therefor shall be

made and the license issued as herein provided for. If any license is revoked or canceled for any reason by the city alcoholic beverage administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by him upon the issuing of the license.

(d) When any person applies for a license required or authorized by this article after July 1 of any year, he shall be charged, if the license is issued, a license fee equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted until the following July 1; except that no license shall be issued for a shorter period than six (6) months. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(e) Should any person after obtaining a license to carry on any of the businesses mentioned under this section be prohibited from conducting such business for the full term of the license because of any changes that may hereafter be made in the laws of the state with reference to intoxicating liquors, then the city shall refund to him the proportionate part of the license for the period during which he is prevented from carrying on the business.

(f) All license fees from licenses issued under this chapter shall be collected by the city alcoholic beverage administrator.  
(Code 1955, §§ 3-27—3-31, 3-45, 3-47)

State law reference—Municipal license fees, KRS 243.070.

### Sec. 3-32. Special temporary licenses.

(a) The city alcoholic beverage administrator may, in his discretion, approve a special temporary license as authorized under KRS 243.290 for the sale of malt beverages within the corporate boundaries of the city, the fee for which shall be twenty-five dollars (\$25.00) for each month or part of month for which the temporary license is issued.

(b) The city alcoholic beverage administrator may, in his sound discretion, approve a special temporary retail drink license to  
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any person who qualified for such a license in accordance with the provisions of KRS 243.260. The fee for such license shall be one-sixth of the full year's license for a retail drink license for each month or part of month for which such special temporary license is issued.

(Code 1955, §§ 3-44, 3-46)

State law reference—Limitation on fee, KRS 243.040.

### Sec. 3-33. Quota for beer licenses.

No beer or malt beverage licenses for the sale, handling or distribution at retail of beer or malt beverages and no wholesale beer or malt beverage licenses for the sale, handling or distribution at wholesale of beer or malt beverages shall be granted or issued by the city if, on account of such grant or issuance, the number of holders of retail beer licenses would exceed sixty-eight (68) and the number of wholesale beer licenses would exceed three (3). However, the present holders of beer and malt beverage retail licenses and the present holders of wholesale beer distributor's licenses shall be entitled to renewal thereof upon making proper application therefor and provided they shall meet all federal, state and municipal requirements. If any holder of such license shall allow the same to expire or if such a license shall be denied for any legal reason, revoked or surrendered, no new or renewed license shall be issued if the issuance thereof would cause the number of retail beer licenses in the city to exceed sixty-eight (68) or the number of wholesale beer distributor's licenses in the city to exceed three (3).

(Code 1955, § 3-34; Ord. No. 58-85, § 1, 8-20-85; Ord. No. 19-86, § 1, 4-1-86)

#### Sec. 3-33.1. Limitation on number of licenses.

(a) *Number of Licenses Permitted.* Pursuant to the authority vested in it by KRS 241.060(2), the state alcoholic beverage control board has fixed and established limitations upon the number of wholesale beer distributor's licenses as follows: The number of beer distributor's licenses issued by the alcoholic beverage control board in the commonwealth shall not exceed a number equal to one (1) for every thirty-six (36) retail beer licenses issued by the alcoholic beverage control board. The regulations of the alcoholic beverage control board further provide that the abovementioned

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quota regulation shall not prohibit the renewal of licenses but that the present quota shall be reduced, in conformance with such regulations, as licenses are revoked or surrendered. Therefore, notwithstanding the provisions of section 3-33(b) above, the city alcoholic beverage administrator shall not approve the issuance of any new licenses if the issuance thereof would cause the number of such licenses in the City of Owensboro to exceed the quotas as fixed and established by the state alcoholic beverage control board.

(b) *Certain Types of Licenses Not Considered in Computing Number of Licenses Permitted.* In computing the number of licenses for the purpose of sections 3-33 and 3-33.1, fraternal or social organizations and private clubs which hold such licenses shall be excluded, as shall hotels, inns, or motels as defined in 804 KAR 9:010(2).

(Code 1955, § 3-34; Ord. No. 58-85, § 1, 8-20-85)

#### **Sec. 3-34. Lost or destroyed licenses.**

When a license shall be lost or destroyed without fault on the part of the holder of the license or his agent or employee, a duplicate in lieu of the original license shall be issued by the city treasurer after the treasurer shall be satisfied as to the facts; however, the person applying for the duplicate license shall pay a fee of two dollars (\$2.00) for issuing the duplicate.

(Code 1955, § 3-33)

#### **Sec. 3-35. Transfer.**

No license to sell alcoholic beverages shall be transferable either as to licensee or location except as provided in the alcoholic beverage control laws of the state, and not then until a payment of five dollars (\$5.00) shall be made to the city treasurer.

(Code 1955, § 3-37)

#### **Sec. 3-36. Assignment.**

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 city alcoholic beverage administrator.

(Code 1955, § 3-38)

**Sec. 3-37. Revocation or suspension.**

A violation of any of the provisions of this chapter or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. It shall be the duty of the chief of police to make a written report to the city alcoholic beverage administrator of any violation of this chapter or any amendment thereof, or any of the rules or regulations of the city alcoholic beverage administrator, observed by any member of the police department of the city. Whenever any licensee shall violate any provisions of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the city alcoholic beverage 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 city alcoholic beverage administrator is hereby authorized and empowered to order the revocation or suspension of any license issued under this article.

(Code 1955, § 3-36)

**Cross reference**—Revocation of liquor license for violations pertaining to nude or nearly nude activities, § 3-14.

retail package liquor or liquor by the drink at a location within one hundred feet of the location of any similar establishment in any C-2 Commercial district, nor shall such license be granted or issued to any licensee who proposes to operate at a location in any C-2 Central Commercial district within 100 feet of a similar establishment located in any other district.

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

(6) The location of establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on the effective date of this chapter, March 12, 1956, shall not be affected by the terms of this section and this section shall not apply to existing license locations or to the renewals of licenses therefor, or to transfers thereof. The distance limitations prescribed by this section shall not affect any existing licensed location nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through the failure of the landlord to renew such lease may be transferred to a location which is not closer than one-half the distance between the existing licensed premises and the nearest similar licensed premises.

(7) No beer or malt beverage licenses for the sale, handling or distribution at retail of beer or malt beverages and no wholesale beer or malt beverage licenses for the sale, handling or distribution at wholesale of beer or malt beverages shall be granted or issued by the City of Owensboro if, on account of such grant or issuance, the number of holders of retail beer licenses would exceed sixty-eight and the number of wholesale beer licenses would exceed three. Provided, however, that the present holders of beer and malt beverage retail licenses and the present holders of wholesale beer distributors licenses shall be entitled to renewal thereof upon making proper application therefor and provided they shall

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meet all federal, state and municipal requirements. Provided, further, that if any holder of such licenses shall allow the same to expire or if such a license shall be denied for any legal reasons, revoked or surrendered, then no new or renewed license shall be issued if the issuance thereof would cause the number of retail beer licenses in the City of Owensboro to exceed ~~sixty-eight~~, or the number of wholesale beer distributors licenses in the City of Owensboro to exceed three.

**Editor's note.**—Subsection (7) of § 22 of Ord. No. 11-56, was amended to read as hereinabove set out by § 1 of Ord. No. 9-58 enacted on April 7, 1958.

(8) Pursuant to the authority vested in it by KRS 241.060 (2), the state alcoholic beverages control board has fixed and established limitations upon the number of retail package liquor, retail drink liquor, wholesale beer distributors licenses and wholesale liquor licenses, as follows:

- (a) The number of retail package liquor licenses issued by the alcoholic beverage control board in counties of the commonwealth shall not exceed a number equal to one for every two thousand five hundred persons resident in such county.
- (b) The number of retail drink liquor licenses issued by the alcoholic beverage control board in counties of the commonwealth shall not exceed a number equal to one for every two thousand five hundred residents in such county.
- (c) The number of wholesalers distilled spirits and wine licenses issued by the alcoholic beverage control board in the commonwealth shall not exceed a number equal to one for every thirty-one retail package liquor licenses issued by said alcoholic beverages control board.
- (d) The number of beer distributors license issued by the alcoholic beverage control board in the commonwealth shall not exceed a number equal to one for every thirty-six retail beer licenses issued by said alcoholic beverage control board.

The regulations of the alcoholic beverage control board further provides that the above mentioned quota regulations shall not prohibit the renewal of licenses but that the present quota shall be reduced, in conformance with such regulations, as licenses are revoked or surrendered. Therefore, notwithstanding the provisions of section 22(7) [subsection (7)] above, the city alcoholic beverage administrator shall not ap-

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RECEIVED  
JUL 16 9 40 AM '82  
ALCOHOLIC  
BEVERAGE CONTROL

ORDINANCE NO. 48-82

ORDINANCE ALLOWING SALE OF ALCOHOLIC  
BEVERAGES ON SUNDAYS AT CERTAIN HOTELS,  
MOTELS AND RESTAURANTS

WHEREAS, K.R.S. 244.290, as amended by the 1982 Legislature, empowers the legislative body of a city of the second class by duly enacted ordinance to provide for the sale of alcoholic beverages by the drink on Sunday under certain conditions, and

WHEREAS, said law becomes effective July 15, 1982, and

WHEREAS, it is the intent of this Board of Commissioners to enact an ordinance in compliance with said statute to become effective as of the effective date of said statute.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

SECTION 1. That the sale of distilled spirits and wine by the drink shall be permitted on Sunday from 1:00 p.m. until 2:00 a.m. Monday, by hotels, motels and restaurants which are licensed for the retail sale of 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 percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

SECTION 2. In addition to the license mentioned above, qualifying motels, hotels and restaurants must also purchase a license from the City of Owensboro Alcoholic Beverage Control Administrator for Sunday sales of distilled spirits and wine by the drink. The cost of the Sunday liquor and wine license shall be \$300.00.

SECTION 3. Nothing herein shall be construed to be in conflict with the intent of K.R.S. 244.290, except the reference to license fees which are permitted by K.R.S. 243.070.

SECTION 4. This ordinance shall become effective July 15, 1982.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this the 22nd day  
of June, 1982.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the 29th  
day of June, 1982.

  
\_\_\_\_\_  
W. Miller Mayor

ATTEST:

  
\_\_\_\_\_  
Carol Blake, City Clerk

C E R T I F I C A T I O N

I, Carol Blake, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 48-82, duly adopted by the Board of Commissioners of the City of Owensboro on June 29, 1982, the original of which is on file in the office of the City Clerk.

This 15th day of July 1982.

  
\_\_\_\_\_  
Carol Blake  
City Clerk

In the matter of:

ORDER NO. R-1 C

Approval of Amendment to Regulation  
of the Alcoholic Beverage Control  
Administrator for the City of Owensboro,  
Kentucky

ORDER

\* \* \* \* \*

The Alcoholic Beverage Control Administrator for the City of Owensboro, Kentucky, having filed with the Kentucky Alcoholic Beverage Control Board an amendment to Section 3 of his regulation that was approved by the Board on December 11, 1968 and February 14, 1972, and the Board having reviewed the regulation in its entirety, and considered the same and being sufficiently advised;

IT IS, THEREFORE, ORDERED AND ADJUDGED by the Kentucky Alcoholic Beverage Control Board that the Regulation, with the amendment, is hereby approved, the said amendment reads as follows:

"(3) In computing the number of licenses for the purpose of Sections (1) and (2) hereof, fraternal or social organizations and private clubs which hold such licenses shall be included, but a hotel, inn, or motel, as defined in 804 KAR 9:010, Section 2, shall not be included.

Signed and dated this 16th day of August, 1977."

This the 17th day of August, 1977.

ALCOHOLIC BEVERAGE CONTROL BOARD

Bernard Keene  
BERNARD KEENE, CHAIRMAN

ATTEST:

Bonnie H. Hall  
Bonnie H. Hall, Secretary  
Alcoholic Beverage Control Board

COMMONWEALTH OF KENTUCKY  
ALCOHOLIC BEVERAGE CONTROL BOARD

IN THE MATTER OF:

ORDER NO. R-1 B

ALCOHOLIC BEVERAGE CONTROL REGULATIONS  
OF THE CITY OF OWENSBORO, KENTUCKY

\* \* \* \* \*

ORDER

It appearing that in 1956 the City of Owensboro, Kentucky, duly adopted a comprehensive set of ordinances to regulate the traffic in and sale of alcoholic beverages within said City which ordinances were duly approved by the Kentucky Alcoholic Beverage Control Board; and

It further appearing that the Kentucky Alcoholic Beverage Control Board erroneously entered an Order on November 24, 1971, rescinding its approval of said ordinances under the mistaken belief that such action was required under Kenneth R. Bickett d/b/a/ Bickett Distributing Company vs. Shirley Palmer Ball, et al, (1971) 470 SW 2d 341.

NOW THEREFORE, Order No. R-1A of the Kentucky Alcoholic Beverage Control Board entered on November 24, 1971, is hereby rescinded and declared to be null and void and the regulations adopted by the Alcoholic Beverage Control Administrator under date of December 6, 1968, and approved by the Kentucky Alcoholic Beverage Control Board on December 11, 1968, be and the same are hereby reinstated, approved and affirmed the same as if Order No. R-1A had not been entered.

This the 14th day of February, 1972.

ALCOHOLIC BEVERAGE CONTROL BOARD

By Julian W. Knippenberg  
Julian W. Knippenberg, Commissioner

ATTEST:

Bonnie H. Hall  
Bonnie H. Hall, Secretary  
Alcoholic Beverage Control Board

Regulations of City Alcoholic Beverage  
Control Administrator of the City of  
Owensboro, Kentucky

ORDER

\* \* \* \* \*

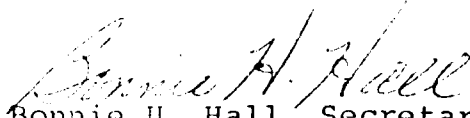
It appearing to the Kentucky Alcoholic Beverage Control Board that after approving Regulations of the City of Owensboro, Kentucky, setting quotas for Retail Package Liquor Licenses, Retail Drink Liquor Licenses, Wholesale Distilled Spirits and Wine, Wholesale Beer Licenses and Retail Beer Licenses, the Court of Appeals of Kentucky having held that the matter of setting quotas is in the exclusive jurisdiction of the Kentucky Alcoholic Beverage Control Board, THEREFORE, the approval by the said Board of the said Regulations is now hereby rescinded.

This the 24th day of November 1971.

ALCOHOLIC BEVERAGE CONTROL BOARD

  
Q. F. PEARL, SR., COMMISSIONER

ATTEST:

  
Bonnie H. Hall, Secretary  
Alcoholic Beverage Control Board

APPROVAL OF REGULATIONS OF CITY ALCOHOLIC BEVERAGE  
CONTROL ADMINISTRATOR OF THE CITY OF  
OWENSBORO, KENTUCKY

This matter having come on for hearing on the motion of Stuart H. Bailey, Alcoholic Beverage Control Administrator of the City of Owensboro, for approval of regulations issued by him, dated December 6, 1968, and the Board having been advised the said regulations are approved as follows:

- (1) Pursuant to the authority vested in it by K.R.S. 241.060 (2), the state Alcoholic Beverages Control Board has fixed and established limitations upon the number of retail package liquor, retail drink liquor, wholesale beer distributors licenses and wholesale liquor licenses, as follows:
  - (a) The number of retail package liquor licenses issued by the Alcoholic Beverage Control Board in counties of the Commonwealth shall not exceed a number equal to one for every two thousand five hundred persons resident in such county.
  - (b) The number of retail drink liquor licenses issued by the Alcoholic Beverage Control Board in counties of the Commonwealth shall not exceed a number equal to one for every two thousand five hundred residents in such county; provided, however, that in its discretion the Alcoholic Beverage Control Board may issue retail drink licenses in excess of the number herein provided where the license is for an outlet in a hotel, inn or motel for accommodation of the traveling public, and is designed primarily to serve such transient patrons, and any applicant for such license shall submit to the Board satisfactory proof that the facilities will accommodate sufficient patrons to sustain the operation of a retail drink outlet, which shall contain not less than fifty (50) sleeping units, dining facilities for not less than twenty-five thousand (25,000) square feet of parking space. Licenses issued under this exception are not subject to transfer to other premises.

(c) The number of wholesalers distilled spirits and wine licenses issued by the Alcoholic Beverage Control Board in the Commonwealth shall not exceed a number equal to one for every thirty-one retail package liquor licenses issued by said Alcoholic Beverage Control Board.

(d) The number of beer distributors license issued by the Alcoholic Beverage Control Board in the Commonwealth shall not exceed a number equal to one for every thirty-six retail beer licenses issued by said Alcoholic Beverage Control Board.

The regulations of the Alcoholic Beverage Control Board further provide that the above mentioned quota regulations shall not prohibit the renewal of licenses but that the present quota shall be reduced, in conformance with such regulations, as licenses are revoked or surrendered. Therefore, notwithstanding any other provision hereof, the city Alcoholic Beverage Administrator shall not approve the issuance of any new licenses if the issuance thereof would cause the number of such licenses in the City of Owensboro to exceed the quotas fixed and established by the state Alcoholic Beverage Control Board.

- (2) No beer or malt beverage licenses for the sale, handling or distribution at retail of beer or malt beverages and no wholesale beer or malt beverage licenses for the sale, handling or distribution at wholesale of beer or malt beverages shall be granted or issued by the Alcoholic Beverage Control Administrator of the City of Owensboro if, on account of such grant or issuance, the number of holders of retail beer licenses would exceed sixty-eight and the number of wholesale beer licenses would exceed three.
- (3) In computing the number of licenses for the purpose of sections (1) and (2) hereof, fraternal or social organizations and private clubs which hold such licenses shall be included.
- (4) No beer or malt beverage retailer or distributor shall sell, distribute, deliver or otherwise traffic in beer or malt beverages within the City of Owensboro without first obtaining a retailer's or distributor's license, as the case may be, from the Alcoholic Beverage Control Administrator of the City of Owensboro.



Done at Frankfort, Kentucky, this 11th day of December  
1968.

KENTUCKY ALCOHOLIC BEVERAGE CONTROL  
BOARD

By: *S. W. Palmer-Ball*  
S. W. Palmer-Ball, Chairman

ATTEST:

*Bonnie H. Hall*  
Bonnie H. Hall, Secretary  
Alcoholic Beverage Control Board

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