

**AN ORDINANCE REPEALING THE CITY OF RADCLIFF, KENTUCKY
CODIFICATION OF ORDINANCES, CHAPTER 4.1: ALCOHOLIC BEVERAGES,
SECTION 4.1-025 LICENSING AND HEARINGS, PARAGRAPH (J) LICENSE FEES
IN ITS ENTIRETY**

WHEREAS, the City Council of Radcliff, Kentucky adopted the Code of Ordinances for the City on February 21, 1978; and

WHEREAS, the City Council desires to repeal the City of Radcliff Codification of Ordinances, Chapter 4.1, Alcoholic Beverages, Section 4.1-025 Licensing and Hearings, Paragraph (J) License Fees, in its entirety, in order to enact a new section regarding License Fees;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Radcliff of the Commonwealth of Kentucky as follows:

The City of Radcliff Codification of Ordinances, Chapter 4.1, Alcoholic Beverages, Section 4.1-025 Licensing and Hearings, Paragraph (J) License Fees, enacted on or about November 29, 2011, is hereby repealed in its entirety.

Read at a meeting of the Radcliff City Council on the 16th day of July 2013; a second reading was held on the 12th day of August 2013; said Ordinance was READ, PASSED, and APPROVED on the 12th day of August 2013.

CITY OF RADCLIFF, KENTUCKY

BY:

James S. Duvall, Jr.
JAMES S. DUVALL, JR.
MAYOR, CITY OF RADCLIFF

ATTESTED:

Ashley Russo
ASHLEY RUSSO
CITY CLERK

AN ORDINANCE OF THE CITY OF RADCLIFF, KENTUCKY CODIFICATION OF ORDINANCES, AMENDING CHAPTER 4.1: ALCOHOLIC BEVERAGES, SECTION 4.1-020 DEFINITIONS

WHEREAS, the City Council of Radcliff, Kentucky adopted the Code of Ordinances for the City on February 21, 1978, and its Chapter 4.1: Alcoholic Beverages, Section 4.1-020 on or about November 29, 2011; and

WHEREAS, the City Council desires to amend Chapter 4.1, Alcoholic Beverages, Section 4.1-020 Definitions;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Radcliff of the Commonwealth of Kentucky as follows:

That Chapter 4.1, Alcoholic Beverages, Section 4.1-020 Definitions, is amended to read as follows:

§ 4.1-020 DEFINITIONS.

....

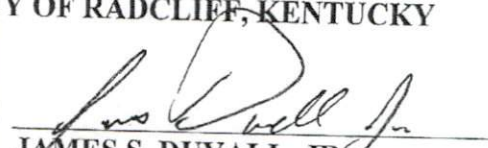
RESTAURANT. A premises that can demonstrate to the City Administrator that gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensee restaurant for the annual license period, and the restaurant must have bona fide dining facilities with a seating capacity of at least 100 persons inside its building.

All other terms of the ordinance shall remain the same.

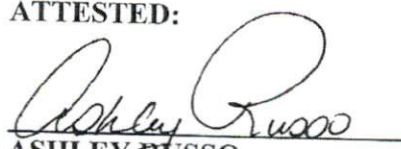
Read at a meeting of the Radcliff City Council on the 16th day of July 2013; a second reading was held on the 12th day of August 2013; said Ordinance was READ, PASSED, and APPROVED on the 12th day of August 2013.

CITY OF RADCLIFF, KENTUCKY

BY:


JAMES S. DUVALL, JR.
MAYOR, CITY OF RADCLIFF

ATTESTED:


ASHLEY RUSSO
CITY CLERK

**AN ORDINANCE OF THE CITY OF RADCLIFF, KENTUCKY CODIFICATION OF
ORDINANCES, CHAPTER 4.1: ALCOHOLIC BEVERAGES, SECTION 4.1-025
LICENSING AND HEARINGS, PARAGRAPH (J) LICENSE FEES**

WHEREAS, the City Council of Radcliff, Kentucky adopted the Code of Ordinances for the City on February 21, 1978, and its Chapter 4.1: Alcoholic Beverages, Section 4.1-025 on or about November 29, 2011; and

WHEREAS, the City Council has repealed Chapter 4.1, Alcoholic Beverages, Section 4.1-025 Licensing and Hearings, Paragraph (J) License Fees, in its entirety, in order to enact a new section regarding updated License Fees, in accordance with state law as enacted by the Kentucky General Assembly;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Radcliff of the Commonwealth of Kentucky as follows:

That a new Chapter 4.1, Alcoholic Beverages, Section 4.1-025 Licensing and Hearings, Paragraph (J) License Fees, is enacted as follows:

§ 4.1-025 LICENSING AND HEARINGS.

....

(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:

(1) Malt beverages:

Type of License	Fee	Statutory Reference
Brewer's license, per annum	\$ 500.00	KRS 243.070(13)(a)
Microbrewery license, per annum	\$ 500.00	KRS 243.070(13)(b)
Distributor's license, per annum	\$ 400.00	KRS 243.070(13)(c)
Nonquota retail malt beverage package license, per annum	\$ 200.00	KRS 243.070(13)(d)
Nonquota type 4 retail malt beverage drink license, per annum	\$ 200.00	KRS 243.070(13)(e)
Brew-on premises license, per annum	\$ 100.00	KRS 243.070(13)(f)

(2) Distilled spirits and wine:

Type of License	Fee	Statutory Reference
Distiller's license, per annum	\$ 500.00	KRS 243.070(2)(a)
Rectifier's license, per annum	\$3,000.00	KRS 243.070(2)(b)
Wholesaler's license, per annum	\$3,000.00	KRS 243.070(2)(c)
Quota Retail package license, per annum	\$1,000.00	KRS 243.070(2)(d).2

Quota Retail drink license, per annum	\$1,000.00	KRS 243.070(3)(b)
Special temporary license, per event	\$ 166.66	KRS 243.070(4)(b)
Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum	\$2,000.00	KRS 243.070(5)
Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum	\$1,000.00	KRS 243.070(6)(b)
Nonquota type 3 retail drink license (includes distilled spirits, wine; and malt beverages), per annum	\$ 300.00	KRS 243.070(7)
Distilled spirits and wine special temporary auction license, per event	\$ 200.00	KRS 243.070(8)
Special Sunday retail drink license, per annum	\$ 300.00	KRS 243.070(9)
Extended hours supplemental license, per annum	\$2,000.00	KRS 243.070(10)
Caterer's license, per annum	\$ 800.00	KRS 243.070(11)
Bottling house or bottling house storage license, per annum	\$1,000.00	KRS 243.070(12)

The City may, as the occasion arises, issue any licenses and collect fees permitted by law for the privilege, manufacturing and trafficking in alcoholic beverages, as designated in KRS 243.070, as amended.

Read at a meeting of the Radcliff City Council on the 11th day of July 2013; a second reading was held on the 12th day of August 2013; said Ordinance was READ, PASSED, and APPROVED on the 12th day of August 2013.

CITY OF RADCLIFF, KENTUCKY

BY: James S. Duvall, Jr.
 JAMES S. DUVALL, JR.
 MAYOR, CITY OF RADCLIFF

ATTESTED:

Ashley Russo
 ASHLEY RUSSO
 CITY CLERK

AN ORDINANCE OF THE CITY OF RADCLIFF, KENTUCKY
ESTABLISHING REGULATIONS AND REQUIREMENTS
FOR THE LICENSING AND OPERATION OF
ESTABLISHMENTS FOR THE SALE OF
ALCOHOLIC BEVERAGES WITHIN THE CITY
AND PROVIDING FOR AN ALCOHOLIC BEVERAGE CONTROL OFFICER

BE IT ORDAINED BY THE CITY OF RADCLIFF, as follows:

§4.1-001 PURPOSE.

The purpose of this chapter is:

(A) To set forth uniform regulations and requirements for the licensing and operations of establishments for the sale of alcoholic beverages within the City; and,

(B) To establish the authority and duties of the City's alcoholic beverage control officer.

§4.1-002 TITLE; DEFINITIONS.

(A) *Short title.* This chapter shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City.

(B) *Definitions.* Words used throughout this chapter, unless the context requires otherwise, shall have the same definitions as set out in the state's Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243, and 244) of the Commonwealth, and all amendments and supplements thereto.

§4.1-003 SCOPE.

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wines where the context permits the application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the City, from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any statutes or administrative regulations of the Commonwealth relating to violations pertaining to alcoholic beverages.

§4.1-004 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.

The provisions of the Alcoholic Beverage Control Law of the Commonwealth (KRS Chapters 241, 242, 243 and 244), and all amendments and supplements and administrative regulations thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

§§ 4.1-005 through 4.1-019 Reserved**§ 4.1-020 DEFINITIONS.**

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

ALCOHOLIC BEVERAGES. Every liquid or solid, whether patented or not, containing alcohol, in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

BREW-ON-PREMISES ESTABLISHMENT. Any establishment that has been granted a license pursuant to the provisions of § 4.1-030 to provide ingredients, equipment, and assistance permitted by § 4.1-030 to a customer to brew malt beverages on the premises of the establishment.

BREWER. Any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery either by himself, herself or by his or her agent.

BREWERY. Any place or premises where malt beverages are manufactured for sale and include all offices, granaries, mash rooms, cooling rooms, vaults, yards and store rooms, connected with the premises, or where any part of the process of the manufacture of malt beverage is carried on or where any apparatus connected with the manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept.

BUILDING CONTAINING LICENSED PREMISES. The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

CITY ADMINISTRATOR. The City Alcoholic Beverage Control Administrator.

CUSTOMER. Any person at least 21 years old.

DISTILLERY. Any place or premises where distilled spirits are manufactured for sale and which are registered in the office of any collector of internal revenue for the United States and it includes any United States government bonded warehouse.

DISTRIBUTOR. Any person who distributes malt beverages for the purpose of being sold at retail.

MALT BEVERAGES. Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242. (3.2% of alcohol by weight)

NONPROFIT. These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).

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

SALE. Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

Statutory reference:

Alcoholic beverages, see KRS Chapters 242 - 244

§ 4.1-021 HOURS OF OPERATION.

(A) A licensed premises shall be permitted to remain open for any purpose between the hours of 6:00 a.m. and 1:00 a.m. the following day, Monday through Saturday, and no person shall be permitted to remain within the licensed premises between the hours of 1:00 a.m. and 6:00 p.m., the following day, Monday through Saturday, except for bar owners, employees or subcontractors while performing work on the licensed premises, including but not limited to plumbing, cleaning, or electrical repair, who shall be allowed on the premises at any time.

(B) On Sunday, malt beverages shall be sold between the hours of 1:00 p.m. and 1:00 a.m., Monday.

(C) On Sunday, distilled spirits and wine by the package shall be sold between the hours of 1:00 p.m., Sunday, and 1:00 a.m., Monday.

(D) *Exceptions.*

(1) Those premises which have obtained a special Sunday retail drink license may remain open between the hours of 1:00 p.m., Sunday, and 1:00 a.m., Monday, and may sell distilled liquor by the drink or wine by the drink.

§ 4.1-022 USE OF REVENUE.

All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.

§ 4.1-023 CITY ADMINISTRATOR.

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law.

(B) The compensation to be paid the City Administrator shall be established by the city's annual salary ordinance.

(C) The bond for the City Administrator shall be in the same form and amount as required under KRS 241.180.

(D) *City Administrator enforcement of section, duties, and rule-making powers.*

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinance, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter in a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him or her concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him or her, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(E) *Appointment; oath; bond.* The City Administrator shall take office on his or her appointment and on taking the oath and on the execution of the bond for the faithful performance of his or her duties as required by law.

(F) *Functions of City Administrator.* The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(G) *Action on license application; appeals.*

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this chapter, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his or her recommendations thereon, and the reasons therefore, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state.

Statutory reference:

Alcoholic beverages, see KRS Chapters 242 et seq.

City Administrator, see KRS 241.160

§ 4.1-024 CLUBS, LODGES, AND FRATERNAL ORDERS.

(A) *Definitions.* For the purpose of this section, **CLUB, LODGE, or FRATERNAL ORDER** shall mean and include any non-profit social, fraternal, military, or political organization or club, lodge, or order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, organization, or fraternal order.

(B) *License required; nonresidential building.*

(1) No club, lodge, or fraternal order shall engage in the business of manufacturing, storing, purchasing, transporting, trafficking, or selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, organization, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) *License application; issuance.*

(1) Whenever any club, lodge, organization, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous intoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

(a) The name and location of such club, lodge, organization, or fraternal order;

(b) The names and addresses of the officers thereof;

(c) The date and character of its organization; and

(d) The approximate number of members in good standing, and shall, in addition there to be signed by the owner, or his or her agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he or she shall pass an order to that effect and thereupon the Finance Department shall issue to the

applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

(D) *License fee; proration refunds.*

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued by the Finance Department shall pay to the city for the license, the sum of \$150 per year.

(2) When the license is issued after August 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part of any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

(E) *Display of license.* When a license shall have been granted issued under this section, the club, lodge, organization, or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction, a copy thereof to be kept or placed in some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The license shall remain on display during the period for which the license shall be granted.

(F) *Forfeiture or revocation of license; hearing on charge.* If any club, lodge, organization, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control.

§ 4.1-025 LICENSING AND HEARINGS.

(A) *License required.*

(1) No person shall sell, vend, deliver, or traffic in spirituous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on

or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(B) *License application; contents.* Any person desiring to engage in the business of distilling or wholesaling spirituous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink shall, before so doing, file with the City Administrator an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any stockholder that owns more than 50% of the stock and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises, unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) **<Reserved>**

(G) *Qualification of licensee.* No person shall become a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

(I) *Prorate license fees.*

(1) When any person applies for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) 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.

(J) *License fees.* The licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees:

(1) Malt beverages:

Type of License	Fee	Statutory Reference
Brewer's license, per annum	\$ 500.00	KRS 243.070(18)(a)
Microbrewery license, per annum	\$ 500.00	KRS 243.070(18)(b)
Distributor's license, per annum	\$ 400.00	KRS 243.070(18)(c)
Retailer's license, per annum	\$ 200.00	KRS 243.070(18)(d)
Special temporary license, per event	\$ 25.00	KRS 243.070(18)(e)
Brew-on premises license, per annum	\$ 100.00	KRS 243.070(18)(f)

(2) Distilled spirits and wine:

Type of License	Fee	Statutory Reference
Distiller's license, per annum	\$ 500.00	KRS 243.070(1)(a)
Rectifier's license, per annum	\$3,000.00	KRS 243.070(1)(b)
Blender's license, per annum	\$3,000.00	KRS 243.070(1)(c)
Wholesaler's license, per annum	\$3,000.00	KRS 243.070(1)(d)
Retail package license, per annum	\$1,000.00	KRS 243.070(1)(e).2
Retail drink license, per annum	\$1,000.00	KRS 243.070(2)(b)
Motel drink license, per annum	\$1,000.00	KRS 243.070(2)(b)
Restaurant drink license, per annum	\$1,000.00	KRS 243.070(2)(b)
Supplemental bar license, per annum	\$1,000.00	KRS 243.070(2)(b)
Special temporary license, per event	\$ 166.66	KRS 243.070(3)(b)
Special private club license, per annum	\$ 300.00	KRS 243.070(6)
Special Sunday retail drink license, per annum	\$ 300.00	KRS 243.070(7)
Nonresident, special agent or solicitor's license, per annum	\$ 40.00	KRS 243.070(9)
Restaurant wine license, per annum	\$ 600.00 for new applicants \$ 400.00 for renewal	KRS 243.070(10)(a) And KRS 243.070(10)(b)
Temporary wine license, per event	\$ 50.00	KRS 243.070(4)
Caterer's license, per annum	\$ 800.00	KRS 243.070(11)

The City may, as the occasion arises, issue any licenses and collect fees permitted by law for the privilege, manufacturing and trafficking in alcoholic beverages, as designated in KRS 243.070, as amended.

Statutory reference:

City license fees, see KRS 243.070

(K) <Reserved>

(L) *Contents of license.* All licenses issued pursuant to § 4.1-022 shall contain the following information:

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

(M) *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of \$5.

(N) *License revocation or suspension.*

(1) Any license issued pursuant to §§ 4.1-021 et seq. may be revoked or suspended by the City Administrator, after complying with the hearing requirements below, for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) If the licensee makes any false material statements in an application for a license; or

(c) If the licensee violates any provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control.

(d) Conviction of the licensee of any felony; or

(e) Conviction of the licensee, or his or her agent who controls or operates the licensee's premises, of any offense pertaining to prostitution, illegal gambling, knowingly possessing or receiving stolen property, sale or use of illegal drugs, or the illegal sale or use of controlled substances or prescription drugs; or

(f) If the licensee allows the premises to be used as the site for any criminal activity as defined by City ordinance or regulation, state or federal law or regulation.

(g) If the licensee allows the premises to be used as the site for any public nuisance as defined in §13.1 of the City of Radcliff Code of Ordinances;

(h) If licensee allows the premises to be used as the site for a unlicensed sexually oriented business; or

(i) If the licensee is delinquent or in default of an obligation to pay a loan, fine, lien or other financial obligation to the city, then license is subject to suspension until the obligation is satisfied.

(2) The existence of any delinquent or unpaid city taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.* The City Administrator may, after a hearing, order a suspension of the license for up to 180 days for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city. The suspended licensee may pay a fine of \$50 per day in lieu of the suspension, subject to the approval of the City Administrator. The City Administrator shall issue a written order of such suspension via regular United States mail to the licensee's address indicated on the license.

(P) *Issuance of license after revocation.* Any person, partnership, LLC, or other corporate entity who has suffered, or any of its members or partners have suffered, a revocation of a license to do business under the provisions of §§ 4.1-022 *et seq.* shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to §§ 4.1-022 *et seq.* shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search, and for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state.

(2) The licensee holding a license pursuant to this chapter shall not sell any spirituous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in, or allowing customers to engage in, fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

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

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

(4) Treating, or giving away alcoholic beverages at no cost to the customer, in violation of KRS 244.050, as amended, shall be unlawful and is forbidden.

(5) No spirituous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed on the premises any spirituous or vinous liquors or mixtures thereof during hours when the sale of alcoholic beverages is prohibited. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishment, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) Registration, photographing, and fingerprinting of employees.

(1) Any person employed in any capacity in any establishment or place of business, except as herein provided, where liquor is sold by the drink as defined in the Kentucky Revised Statutes, shall register in a book of registration to be kept by the Police Department and is required to be fingerprinted and photographed by the Police Department within five days from the time of his or her employment. No person shall fail to register or be fingerprinted and photographed. Should the City Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require the

person to appear in person at the City Police Department for the purpose of having his or her fingerprints taken.

(2) No employer, whether a person, firm, or corporation, shall allow any person to remain in employment longer than five days unless within the five-day period the employee shall have registered and shall have been fingerprinted and photographed.

(3) The registrants are required to have in their possession the identification cards issued by the Police Department on their persons at all times during their hours of employment in establishments selling or dispensing liquor by the drink.

(4) The city shall require a payment of \$5 of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrant. Any person who fails to appear at the designated date and time of appointment to be registered, photographed, and fingerprinted, shall be charged an additional \$5 for each and every missed appointment unless that person had previously contacted the Police Department at least one hour in advance of that person's scheduled appointment to cancel said appointment.

(5) In those businesses having a liquor by the drink license where another business is the principal user of the location, including but not limited to restaurants and hotels, only those persons who are directly engaged in that portion of the business which sells liquor by the drink are subject to this section.

(6) This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

(7) Any establishment having a liquor by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an ID card which shall only list the person's name, address, and date of birth.

(S) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

(T) *Hearings.* Revocation or suspension proceedings shall be governed as follows.

(1) *Notice of hearings.* The City Administrator shall provide written notice, via regular United States mail or hand delivery to the licensee, notice of any hearing related to the possible suspension or revocation of the licensee's alcoholic beverage license. The address provided by the licensee to the city on its license application shall be deemed the address for notice of hearing. The licensee shall notify the city of any change of address subsequent to the

submission of an application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted a City Hall at least 24 hours prior to the hearing.

(2) *Procedure.*

(a) The City Administrator shall be the hearing officer for any proceedings related to the possible suspension or revocation of any city alcoholic beverage license.

(b) Any hearing before the City Administrator shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS 13B.080 and 13B.090.

(c) The City Attorney, or his or her designee, shall represent the city at the hearing. The licensee has a right to retain counsel for representation at the hearing.

(d) The City Administrator shall issue a written decision, including findings of fact and conclusions of law, within seven days of the conclusion of the hearing.

(3) *Appeals.* Any order of suspension or revocation issued by the City Administrator may be appealed to the State Alcoholic Beverage Control Board within 30 days of the date of the order.

§ 4.1-026 WHOLESALE DISTRIBUTION AND SALES.

(A) *Definition.* As used in this section, ***DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES*** shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) *Nonalcoholic beverages exempted.* This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) *License required.* No person shall engage in the business of distribution or sale by wholesale of any cereal, malt, or vinous beverage, without first having obtained a license therefor.

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the Finance Department a license therefor, for which he or she shall pay the license fees as provided in this chapter.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse,

agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this chapter.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next, after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) *Hours of operation restricted.*

(1) The distribution, sale by wholesale and delivery of any cereal, malt, or vinous beverages shall occur between the hours of 6:00 a.m. and midnight, Monday through Saturday only.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of a Sunday.

(F) *Distributor's license.*

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in the licensed premises to other distributors, to retailers, or to consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

§ 4.1-027 SUPPLEMENTAL RETAIL DRINK LIQUOR LICENSES.

(A) A supplemental bar license may be issued to a holder of a retail drink liquor license upon a showing to the City Alcoholic Beverage Control Administrator of good cause and need for the supplemental license, and upon payment of a fee equivalent to the amount of the annual license fee paid by the licensee. This supplemental license may only be issued for use on the premises for which the applicant's existing retail drink liquor license was issued.

(B) Retail drink liquor license - supplemental shall not be considered in determining the quota of the city for regular retail drink liquor licenses.

§ 4.1-028 PACKAGE RETAIL LIQUOR OUTLET.

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his or her business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Administrator with a drawing of his or her normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE \$100.00, MAXIMUM FINE \$500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnership, or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above, shall be exempt from the provisions hereof.

§ 4.1-029 <RESERVED>

§ 4.1-030 BREW-ON-PREMISES LICENSE.

(A) No person shall operate or maintain a brew-on-premises establishment without first obtaining a license to do so from the Finance Department. A license shall be granted if an applicant meets the provisions of this section.

(B) A brew-on-premises license may be authorized to provide:

(1) Instruction, advice, expertise, space, equipment, ingredients, and bottling supplies for a customer in brewing malt beverages at the licensee premises;

(2) Assistance to customers, including:

(a) Moving containers of beer between storage areas;

(b) Cleaning, maintaining, and repairing brewing and bottling equipment;

(c) Maintaining climate and temperature control;

(d) Disposing of spent grains and waste; and

(e) Quality control, including laboratory analysis of malt beverages;

(3) Filtering and carbonation of malt beverages.

(C) A licensee and his or her employees shall not provide physical assistance to, or on behalf of, the customer in the production or bottling of malt beverages, except as otherwise permitted by statute or administrative regulation.

(D) Malt beverages produced under this license shall:

(1) Be removed from the premises by the customer upon completion of bottling for personal or family use, including use in organized fairs, exhibitions, or competitions; and

(2) Not be sold or offered for sale by the customer.

(E) A customer may produce malt beverages for personal or household use on the premises of the brew-on-premises license. The production of malt beverages per household shall not exceed:

(1) One hundred gallons per year for a household with one adult at least 21 years of age in permanent residence; or

(2) Two hundred gallons per year for a household with two or more adults at least 21 years of age in permanent residence.

(F) A license issued pursuant to this section shall not be:

(1) A quota license as defined in 804 KAR 9:010; and

(2) Transferable to another premises.

(G) The brew-on-premises licensee shall maintain records on customers and gallons brewed for at least two years. Records shall be kept on the premises of the licensed establishment and shall be subject to inspection by the City Administrator for compliance with provisions of this section.

§ 4.1-031 SPECIAL SUNDAY RETAIL DRINK LICENSE.

(A) *Establishment.* There is hereby established a city special Sunday retail drink license, pursuant to the authority granted by KRS 243.070.

(B) *Restrictions.* The holder of the special Sunday package and retail drink license shall be governed by the restrictions contained in KRS 244.290 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail licenses shall be governed by § 4.1-021 that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this chapter and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the

license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

§ 4.1-032 <RESERVED>

§ 4.1-033 NUDE PERFORMANCES PROHIBITED.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ENTERTAINMENT ESTABLISHMENT. A business within the city as defined in City of Radcliff Code of Ordinances Section 20-2.

LICENSE. A retail drink liquor license or a retail malt beverage liquor license issued by the city.

LICENSEE. Any person to whom a retail drink liquor license or a retail malt beverage liquor license has been issued by the city, including the officers and agents of the licensee.

LIQUOR ADMINISTRATOR. The duly appointed Alcoholic Beverage Control Administrator of the city.

NUDITY OR STATE OF NUDITY. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

PREMISES. The land and building in and upon which any business establishment is regulated by alcoholic beverage statutes.

SEMI-NUDE OR STATE OF SEMI-NUDITY. A state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.

(B) It shall be unlawful for and a person is guilty of performing in a state of nudity or a semi-nude activity when that person appears in a state of nudity or performing a semi-nude activity on a Licensee's establishment's premises.

(C) A licensee or retail licensee is guilty of permitting nudity or semi-nude activity when having control of the Licensee's establishment's premises permits said premises:

(1) To be used by any person on the premises in such a manner or attire as to expose to view a person's nudity or semi-nudity; or

(2) To be used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof.

(D) An adult entertainment establishment shall not make application for and shall not be granted any license to sell alcoholic beverages otherwise issued pursuant to Chapter 4-1 or any other applicable ordinance, statute, or regulation. The sale, use, or consumption of alcoholic beverages on the premises of an adult entertainment establishment is prohibited.

(E) In the event a violation of this section occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and KRS 241.190) to determine whether the license at whose business establishment the activity prohibited by this section occurred, shall have his license suspended or revoked.

Penalty, see § 4.1-999

§ 4.1-034 SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED

(A) No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed liquor establishment.

(B) No employee or independent contractor of a licensed liquor establishment shall be compensated in any manner that is measured by a percentage or fraction of beer or liquor retail sales.

§ 4.1-035 CLOSED DOORS DURING HOURS OF OPERATION.

Establishments in the city licensed to sell or dispense alcoholic beverages by the drink shall be prohibited from allowing doors leading from the licensed premises to the public street to remain in the open position for any time period longer than is reasonably necessary to allow persons to enter or leave said establishment at all times during normal hours of operation, except between the hours of 9:00 a.m. and 9:00 p.m. However, the 9:00 a.m. to 9:00 p.m. exception shall not apply to places of entertainment where alcoholic beverages are sold including nightclubs, theaters, pool halls, billiard parlors and similar enterprises. The doors of these places of entertainment shall not remain in the open position throughout their hours of operation.

Penalty, see § 4.1-999

§ 4.1-036 ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

§ 4.1-999 PENALTY.

(A) Any person found guilty of violating any provision of §§ 4.1-021, 4.1-024 through 4.1-028, 4.1-030, or 4.1-031, except § 4.1-025(R), shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Control Board.

(B) Any person, firm, or corporation convicted of violating § 4.1-025(R) shall be deemed guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$500 in the discretion of the District Court.

(C) Any person, firm, corporation, whether for profit or not for profit, or any officer or individual or agent or employee of the corporation who violates any of the provisions of § 4.1-029 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 in the District Court or any other court of appropriate jurisdiction, in the discretion of the court.

(D) Any person found to be in violation of the provisions of § 4.1-033 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 or six months in jail, or both so fined and imprisoned, at the discretion of a court of appropriate jurisdiction.


(E) Any person found to be in violation of § 4.1-034 shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 or imprisoned for not more than six months in jail, or both so fined and imprisoned at the discretion of the court of appropriate jurisdiction.

(F) Any person found to be in violation of the provisions of § 4.1-035 shall be deemed guilty of a violation and shall be subject to a fine of \$25 for each violation.

(G) Any person found to be in violation of the provisions of § 4.1-036 shall be deemed guilty of a violation and shall, upon conviction thereof, be fined not less than \$10 nor more than \$100 for each offense.

Read at a meeting of the City Council on the 28th day of November, 2011, second reading was held on the 29th day of November, 2011; and said Ordinance

was READ, PASSED, and APPROVED at a meeting of the Radcliff City Council on the 27th day
of November, 2011.



JAMES S. DUVALL, JR.
MAYOR, CITY OF RADCLIFF

ATTESTED:



ASHLEY RUSSO
CITY CLERK

**AN ORDINANCE AMENDING AN ORDINANCE OF THE CITY OF RADCLIFF, KENTUCKY,
CREATING THE REGULATIONS FOR CONTROL, LICENSING, OPERATION,
ADMINISTRATION AND ENFORCEMENT OF THE SALE OF ALCOHOLIC BEVERAGES IN
THIS CITY UNDER KRS CHAPTERS 241, 242, 243 AND 244**

WHEREAS, the City of Radcliff adopted an ordinance creating the regulations for control, licensing, operation, administration and enforcement of the sale of alcoholic beverages in this city under KRS Chapters 241, 242, 243 and 244; and

WHEREAS, the City of Radcliff desires to amend said ordinance;

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

Sec. 4.1.7 - Definitions.

3. **Seating Capacity.** The seating capacity shall be measured by the number of chairs in the building excluding stools. The City Administrator shall review the licensee's records and monthly returns required under Section 22 to determine if the licensee has met this definition to permit renewal of such license. Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.
4. **Caterer.** The definition of a caterer is a professional food service business preparing food in a licensed and inspected commissary, transporting food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests. A caterer's license may be issued as a supplemental license to any restaurant or dining facility licensed to serve alcoholic beverages "by-the-drink." 70% of the gross from the catered event must be in food sales. The remaining 30% may be in the sale of alcoholic beverages. Records must be kept for each event and those records must be available for inspection at any time by representatives of ABC or the local Alcoholic Beverage Control Administrator.
4. **5. License Authority.** The City shall issue licenses that are permitted under KRS 242.185(4), limited sale authorization, and as provided for in KRS 243.070, 18(c).

Sec. 4.1-24. Approval of Premises.

The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the county health department, city building inspector, city and state fire marshal and all other inspections required by the Kentucky Building Code. The premises is defined as the physical building, any attached patio or deck or any temporary sidewalk café immediately adjacent to the physical building, and enclosed by rail, fencing, or other dividers that separate the attached patio, deck or sidewalk café from parking and common areas. The premises does not include the parking lot and outside common areas.

Sec. 4.1-27 Books, Records and Reports.

(c) Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to the Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicant's business income is earned from the sale of food. This documentation shall be provided quarterly. In the event the 70% food requirement is not met for two consecutive quarters, the City ABC Administrator shall have discretion to suspend, for a period not less than 30 days, said license in accordance with Sec. 4.1.16(a) or

program. All persons shall complete that training within sixty (60) days of employment or in the first available Kentucky ABC approved program following employment if no program is available within sixty (60) days. All persons completing the training required shall be re-certified not less than once every three years thereafter.

The Manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information.

READ at a meeting of the Radcliff City Council on the 18th day of April, 2006; a second reading was held on the 18th day of May, 2006 said Ordinance was READ, PASSED AND APPROVED ON THE 18th day of May, 2006.

Sheila C. Enyart
Sheila C. Enyart, Mayor

ATTEST:

Barbara Wilkins
Barbara Wilkins, City Clerk

CHAPTER 4.1: ALCOHOLIC BEVERAGES

Section

Article I. In General

- 4.1-1. Purpose
- 4.1-2. Title; definitions
- 4.1-3. Scope
- 4.1-4. Adoption of State Alcoholic Beverage Control Law

Article II. City Alcoholic Beverage Control Administrator; Appointment; Salary, Function, Oath and Bond

- 4.1-5. Appointment and salary and function, oath and bond
- 4.1-6. Oath; bond

Article III. Licenses

- 4.1-7. Definitions

Article IV. Application/License

- 4.1-8. Application
- 4.1-9. Fees
- 4.1-10. Fingerprinting of applicants
- 4.1-11. Expiration date; date fees due, fractional fees
- 4.1-12. Payment of license fees
- 4.1-13. Refund of license fees
- 4.1-14. Lost or destroyed licenses
- 4.1-15. Temporary closing
- 4.1-16. Revocation or suspension
- 4.1-17. Notice to licensee; surrender of license, stock; hearing
- 4.1-18. Transfer or assignment
- 4.1-19. Refusal of license
- 4.1-20. Annual fees
- 4.1-21. Regulatory license fee
- 4.1-22. Change of information
- 4.1-23. Dormancy

Article V. Premises

- 4.1-24. Approval of premises
- 4.1-25. Application of zoning regulations
- 4.1-26. Delinquent taxes or fees
- 4.1-27. Books, records and reports
- 4.1-28. Police inspections

Article VI. Hours for the Sale and Delivery

- 4.1-29. Hours of operation

- 4.1-30. Retail sale of alcoholic beverages on Sunday
- 4.1-31. Locked or closed-off department
- 4.1-32. Other retail sales on licensed premises
- 4.1-33. Violation, penalty, confiscation

Article VII. Advertising Restrictions

- 4.1-34. Advertising restrictions

Article VIII. Conditions, Prohibitions and Restrictions

- 4.1-35. Conditions, prohibitions and restrictions

Article IX. Miscellaneous

- 4.1-36. Entertainment

Article X. Enforcement

- 4.1-37. Enforcement
- 4.1-38. Penalties
- 4.1-39. Hearing
- 4.1-40. Appeals
- 4.1-41. Severability
- 4.1-42. Force and effect

ARTICLE I. IN GENERAL

§ 4.1-1 PURPOSE.

The purpose of this chapter is:

(A) To set forth uniform regulations and requirements for the licensing and operation of establishments for the sale of alcoholic beverages within the city by the drink in restaurants with a seating capacity of 100 persons or more that generate 70% of their revenue from the sale of food; and

(B) To establish the authority and duties of the city's Alcoholic Beverage Control.

§ 4.1-2 TITLE; DEFINITIONS.

(A) *Short title.* This chapter shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the city.

(B) *Definitions.* Words used throughout this chapter, unless the context requires otherwise, shall have the same definitions as set out in the state's Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243 and 244) of the commonwealth, and all amendments and supplements thereto.

§ 4.1-3 SCOPE.

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the

traffic in both malt beverages and distilled spirits and wines where the context permits the application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city, from the restrictions, requirements and penalties of any other ordinance or ordinances of the city or of any statutes of the commonwealth relating to violations pertaining to alcoholic beverages.

§ 4.1-4 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.

The provisions of the Alcoholic Beverage Control Law of the commonwealth (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

ARTICLE II. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; APPOINTMENT; SALARY, FUNCTION, OATH AND BOND

§ 4.1-5 APPOINTMENT AND SALARY AND FUNCTION, OATH AND BOND.

(A) The Mayor shall appoint a City Alcoholic Beverage Control Administrator (hereafter City Administrator) subject to approval of the City Council of the city (hereafter City Council).

(B) The salary for the office shall be fixed from time to time by the City Council.

(C) The functions of the City Administrator shall be the same with respect to city licenses and regulations, as the functions of the Alcoholic Beverage Control Board of the commonwealth (hereafter ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than regulations of the ABC Board. No regulation of the City Administrator shall become effective until it has first been approved by the City Council.

§ 4.1-6 OATH; BOND.

(A) The City Administrator, before entering upon his or her duties as such, shall take the oath as prescribed in § 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than \$5,000 faithfully to perform the duties of his or her office pursuant to the provisions of KRS 62.060 *et seq.*

(B) The cost of bonds given under this section shall be borne by the City of Radcliff (hereafter the city).

ARTICLE III. LICENSES

§ 4.1-7 DEFINITIONS.

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

BONA FIDE RESTAURANT. A premise which can demonstrate to the City Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than 70% of the total gross sales of the licensee restaurant for the annual license period, and the restaurant must have dining facilities with a seating capacity of at least 100 persons inside its building.

CATERER. A professional food service business preparing food in a licensed and inspected commissary, transporting food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests. A caterer's license may be issued as a supplemental license to any restaurant or dining facility licensed to serve alcoholic beverages "by-the-drink". Seventy percent of the gross from the catered event must be in food sales. The remaining 30% may be in the sale of alcoholic beverages. Records must be kept for each event and those records must be available for inspection at any time by representatives of ABC or the local Alcoholic Beverage Control Administrator.

LICENSE AUTHORITY. The city shall issue licenses that are permitted under KRS 242.185(4), limited sale authorization, and as provided for in KRS 243.070(18)(c).

LICENSES. Any premises licensed by the city to sell alcoholic beverages on a retail basis, whether the premise license(s) permit(s) distilled spirits, wine or malt beverage or any combination thereof that qualify as a bona fide restaurant.

SEATING CAPACITY. Restaurants and dining facilities licensed under this chapter shall seat a minimum of 100 persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. The seating must comply with all fire and safety capacity ratings and regulations.
(Ord. passed 5-18-2006)

ARTICLE IV. APPLICATION/LICENSE

§ 4.1-8 APPLICATION.

(A) The City Administrator shall not receive or take any action on any application for an original license to sell alcoholic beverages prior to 1-21-2001.

(B) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements of KRS Chapter 424.

(1) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or, if the applicant is a corporation, the names and addresses of the principal offices and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought and the type of license to be applied for.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(C) All licenses granted under this chapter shall be approved by the City Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board as amended and supplemented from time to time.

(D) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as state statute and ABC Board by regulation

requires. Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City Administrator shall pay the same to the city's Finance Director.

(E) All city licenses shall be in such form as may be prescribed by the City Council and shall contain:

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

(F) Each kind of license shall be printed so as to be readily distinguishable from the other kinds.

§ 4.1-9 FEES.

City Administrator shall transmit fees upon collection to the city's Finance Director. City licenses shall be issued by the City Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

§ 4.1-10 FINGERPRINTING OF APPLICANTS.

Should the City Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require the person to appear in person at the Police Department of the city for the purpose of having his or her fingerprints taken.
(Ord. passed 3-20-2001)

§ 4.1-11 EXPIRATION DATE; DATE FEES DUE, FRACTIONAL FEES.

(A) All city licenses shall expire on January 31 of each year. The renewal by the City Administrator of the license shall not be construed to be a waiver or condonement of any violation which occurred prior to the renewal and shall not prevent subsequent proceedings against the license therefor.

(B) Application for a license after August 1 of any year, shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following February 1, except the no license shall be issued for a shorter period than six months.

(C) 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.

§ 4.1-12 PAYMENT OF LICENSE FEES.

(A) The license fee, or regulatory tax, for every license issued under this chapter shall be payable by the person making application for the license and/or licensee, and no other person, firm or corporation shall pay for any license issued under this chapter.

(B) In addition to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another and also the revocation of the license, if any, of the person, firm or corporation so paying for the license of another.

§ 4.1-13 REFUND OF LICENSE FEES.

Should any licensee under this chapter be prohibited from conducting the business for the full period covered by the license because of any changes that may hereafter be made in the laws of the state with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on the business if the licensee provides sufficient proof to the City Administrator that the period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee or agent or employee of the licensee.

§ 4.1-14 LOST OF DESTROYED LICENSES.

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City Administrator after he shall be satisfied as to the facts; provided, however, that, the person applying for the duplicate license shall pay a fee of \$10 for issuing the duplicate.

§ 4.1-15 TEMPORARY CLOSING.

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

§ 4.1-16 REVOCATION OR SUSPENSION.

(A) Any license may be revoked or suspended by the City Administrator if the licensee shall have violated any of the provisions of KRS Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and

transportation or taxation of intoxicating liquors or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 241, 243 and 244 to be created, or if any clerk, agent, servant or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City Administrator in the exercise of his or her sound discretion deems sufficient.

(B) A license may be revoked for any of the reasons for which the City Administrator would have been required to refuse a license if the facts had been known.

(C) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed;

(2) Making any false, material statements in an application for a license;

(3) Violation of the provisions of § 4.1-13;

(4) If, within a period of two consecutive years, any licensee or any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapters 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within the period, any licensee or any of the clerks, servants, agents or employees of the licensee shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one felony and one misdemeanor.

(5) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, §§ 4.1-21, 4.1-22 or 4.1-36 of this chapter or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof;

(6) Revocation of any license or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations; and

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

§ 4.1-17 NOTICE TO LICENSEE; SURRENDER OF LICENSE, STOCK; HEARING.

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

(B) All restrictions and prohibitions relating to retail package and drink licenses under this chapter and KRS Chapters 241, 242, 243, 244 and rules and regulations promulgated by the ABC Board shall have application to the club licenses.

(C) Within three days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of the Police at the request of the City Administrator immediately cause one of his or her officers to take physical possession of the license and return it to the City Administrator.

(D) When a license has been revoked the former licensee may, with prior approval of the City Administrator dispose of and transfer his or her stock of alcoholic beverages to a licensee, but such a disposition of stock on hand shall not be delayed longer than 90 days in the case of wholesalers or distributors, nor longer than 20 days in the case of retailers.

(E) Appeal from the decision of the City Administrator shall be to the ABC Board.

(F) If a license is revoked or suspended by an order of the City Administrator, the licensee shall at once suspend all operations authorized under his or her license.

§ 4.1-18 TRANSFER OR ASSIGNMENT.

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City Administrator and not then until a payment of \$100 shall be made to the City Administrator.

§ 4.1-19 REFUSAL OF LICENSE.

(A) A city license shall be refused: Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.

- (1) If the applicant has done any act for which a revocation of license would be authorized; or
- (2) If the applicant has made any false material statement in his or her application.

(B) A license (new issuance, transfer or renewal) may be refused by the City Administrator for any reason which he or she, in the exercise of his or her sound discretion, may deem sufficient.

§ 4.1-20 ANNUAL FEES.

(A) Pursuant to the provisions of KRS 243.030, 243.040 and 243.070, the city annual license fees shall be the maximum amounts permitted by KRS 243.030, 243.040 and 243.070.

(B) Any licensee applying for combination of distilled spirits and malt beverage (whether for package, drink or club) shall pay the total of the combined fees for the city license.

(C) In order to engage in sale or trafficking of alcoholic beverages in the city, a party must be a license holder of one or a combination of the licenses required by the City Administrator.

(Ord. passed 6-11-2001)

§ 4.1-21 REGULATORY LICENSE FEE.

(A) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued under § 4.1-8. The license fee shall be a percentage of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the budget adoption for fiscal year 2001 - 2002, and each year thereafter, the percentage rates as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. The fee shall be in addition to any other tax, fee or license permitted by law, but a credit against the fee shall be allowed in an amount equal to the license or fee imposed under this chapter and such regulatory fee shall be applied annually from July 1 to June 30.

(B) Payment of the fee shall accompany the tax returns approved for such use by the City Council and shall be submitted to the City Administrator by the twentieth day of each month for the preceding month's sales one-twelfth of the fee required under § 4.1-21 shall be deducted each month as credit.

(C) Failure to pay the monthly remittance within ten days of the due date constitutes a violation and subjects licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay monthly remittance by the due date is 5% of the tax for each 30 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than \$10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

§ 4.1-22 CHANGE OF INFORMATION.

(A) Since a number of licenses issued with the city are in the name of corporation, it is necessary that stock ownership changes in the corporation be reported to the City Administrator. The City Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(B) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or a change in ownership of stock whereby any person secure 10% of the outstanding stock. Transfer of more than 10% of the total stock shall require a new license.

(C) The following information will be required concerning any new director, officer or person securing any interest in an alcoholic beverage license:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizens of the United States;
- (4) Date of birth;
- (5) Date residence was established in the state, if a resident of the state. If a city resident indicate when residence established;
- (6) Whether or not he or she has any interest in any other license or corporation holding a

license under this act; and

(7) Extent of stock ownership.

(D) This information shall be filed with the City Administrator as an amendment of the application pursuant to which the license was granted.

§ 4.1-23 DORMANCY.

(A) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after 90 days. Such is the intent of this section. Realizing that a licensee, like any other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(B) Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90-day period, the license shall be surrendered to the City Administrator.

(C) Except that the provisions of division (A) above shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. The licensee shall furnish to the City Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the 90 days of inactivity, for any of the reasons set forth herein, and the City Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during the period; provided, however, no license shall be considered valid unless business is conducted thereunder within 12 months from the date of notice to the City Administrator. The extension may not extend beyond the renewal date, but may be for such times as the City Administrator deems appropriate in exercise of his or her sound discretion.

(D) All renewal of licenses must be on file with the City Administrator within 30 days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether the acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that the licensee shall file a written verified statement no less than 20 days from the expiration date of the license, setting forth these facts, and the City of Administrator is hereby authorized to extend the time for filing of a renewal of the license for a reasonable length of time within the sound discretion of the City Administrator; provided, however, the licensee shall pay a license fee from the expiration date of the former license or licenses. The license fee shall not be payable until application is made for the transfer of the license to a new location.

ARTICLE V. PREMISES

§ 4.1-24 APPROVAL OF PREMISES.

The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the county's Health Department, city's Building Inspector, city's and state's Fire Marshal and all other inspections required by the state's Building Code. The premises is defined as the physical building, any attached patio or deck or any temporary sidewalk café immediately adjacent to the physical building and enclosed by rail, fencing or other dividers that separate the attached patio, deck or sidewalk café from parking and common areas. The premises does not include the parking lot and outside common areas. (Ord. passed 5-18-2006)

§ 4.1-25 APPLICATION OF ZONING REGULATIONS.

(A) For the purpose of regulating the location of the restaurant licenses in the city, the various zones or districts as fixed and established by the city's planning and zoning ordinance and the zoning map adopted thereby, as the same may from time to time be amended, are hereby adopted as part of this section.

(B) No license shall be issued to any person firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where the business is prohibited under the present zoning ordinances or other ordinance of the city or any ordinance supplementary or amendatory to same and any license issued in violation of this division shall be void. Provided, however, that, any person, firm or corporation, who or which held a city license for, and actually carried on thereunder, the business during or within the last month of the preceding license period may be granted a similar license by the City Administrator for the same business at the same premises or location.

§ 4.1-26 DELINQUENT TAXES OR FEES.

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the city at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

§ 4.1-27 BOOKS, RECORDS AND REPORTS.

(A) 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 reasonable rules and regulations of the ABC Board. The books and records shall be available at all reasonable times for inspection by the City Administrator and the city employees who may assist the City Administrator in his or her review.

(B) For the purpose of assisting the City Administrator in enforcement of this chapter, every license required to report to the ABC Board under KRS 243.850 shall provide a copy the report to the City Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City Administrator.

(C) Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this chapter shall provide periodic information demonstrating compliance with the continuing requirement that 70% of the applicant's business income is earned from the sale of food. This documentation shall be provided quarterly. In the event the 70% food requirement is not met for two consecutive quarters, the city's ABC Administrator shall have discretion to suspend, for a period not less than 30 days, the license in accordance with § 4.1-16(A) or assess a fine of not less than \$1,250 in lieu of suspension for a first offense.
(Ord. passed 5-18-2006)

§ 4.1-28 POLICE INSPECTIONS.

Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the state's Alcoholic Beverage Control Administrator and the City Administrator to inspect any premise licensed under § 4.1-8.
(Ord. passed 3-20-2001)

ARTICLE VI. HOURS FOR THE SALE AND DELIVERY

§ 4.1-29 HOURS OF OPERATION.

(A) Premises for which there has been granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on the licensed premises, shall be permitted to remain open Monday through Saturday between the hours of 11:00 a.m. and 12:00 midnight. It shall be unlawful for any licensee under this chapter to sell or dispense any distilled spirits, wine or malt beverages when the polls are open for any primary or regular election in the city.

(B) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs. No additional license fee shall be imposed.

(C) All deliveries of alcoholic beverages in the city shall be made between the hours of 8:00 a.m. and 4:00 p.m.

(D) No deliveries shall occur on Sunday.
(Ord. passed 5-18-2006)

§ 4.1-30 RETAIL SALE OF ALCOHOLIC BEVERAGES ON SUNDAY.

(A) A bona fide restaurant may be granted a special Sunday sale retail drink license. The licensee shall be permitted to sell alcoholic beverages by the drink for consumption on the licensed premises on Sunday from 1:00 p.m. until 12:00 midnight contingent upon obtaining a Special Sunday Sales License from the state's Department of Alcohol Beverage Control, KRS 244.290.

(B) If New Year's Eve falls on a Sunday, alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1. No additional license fee shall be imposed.
(Ord. passed 3-20-2001; Ord. passed 3-10-2003; Ord. passed 5-18-2006)

§ 4.1-31 LOCKED OR CLOSED-OFF DEPARTMENT.

At 12:00 midnight the sale of all alcoholic beverages must cease. By 12:00 midnight all tables must be cleared of alcoholic beverages and alcoholic beverages must be secured under lock and key or secured in an inaccessible out-of-sight location. Alcoholic beverages, during all closing hours, shall not be sold, given away, delivered or consumed by anyone, including owners and employees and penalties will be enforced in accordance with § 4.1-33. (Ord. passed 5-18-2006)

§ 4.1-32 OTHER RETAIL SALES ON LICENSED PREMISES.

Bona fide restaurant licensees may remain open for business during hours in which alcoholic beverages are not allowed to be sold for the purpose of conducting its primary business, so long as the licensee keeps all distilled spirits, wine and iced and cooled malt beverages in locked or closed-off compartment.

§ 4.1-33 VIOLATION, PENALTY, CONFISCATION.

If any alcoholic or malt beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the state's Alcoholic Beverage Control act or by this chapter from selling alcoholic or malt beverages, a prima facie presumption shall arise that the alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the state's Alcoholic Beverage Control Act and shall be grounds for revocation or suspension of the license; and in addition to other penalties provided for the violation of this chapter, the city's Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

ARTICLE VII. ADVERTISING RESTRICTIONS

§ 4.1-34 ADVERTISING RESTRICTIONS.

(A) All signage shall meet Article XXVIII of the city's Zoning Ordinance and Development Regulation, except that no license shall advertise any alcoholic beverage by trade name, trademark or in any other manner within 100 feet of the property line of any school or church. The distance shall be by straight line.

(B) Division (A) above shall not prohibit:

(1) Advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons;

(2) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;

(3) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams; or

(4) Advertising on vehicles operated by wholesalers and/or distributors.

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

(D) No licensee shall permit any advertising signs that flash, blink, rotate or otherwise present a

possible distraction to any member of the public viewing the sign from outside the licensed establishment.
(Ord. passed 6-11-2001)

ARTICLE VIII. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

§ 4.1-35 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

All licenses granted under this chapter shall be subject to the following conditions, prohibitions and/or restrictions and all other provisions of KRS Chapters 241, 242, 243 and 244 other ordinances and regulations of the city applicable thereto.

(A) Every licensed restaurant shall be entitled to serve the 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 restaurant shall maintain or operate or permit to be operated more than one 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 which is opened to the general public.

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

(C) No gambling or game of chance shall be permitted in any form on the licensed premises. Dice, slot machines or any device of chance is prohibited and shall not be kept on the premises.

(D) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the 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 Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(E) The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(F) It shall be unlawful for any licensee under this chapter who sells alcoholic beverages of any kind, to giveaway 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.

(G) No licensee or agent or employee of a licensee 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.

(H) (1) As used in this section, **PREMISES** means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(a) No person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(b) No person under 21 years of age shall possess for his or her own use, or purchase or

attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(c) No person under 21 years of age shall misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to the person.

(d) No person under 21 years of age shall use or attempt to use any false, fraudulent or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(e) It shall be unlawful for any person under the age of 21 years to possess in the city any alcoholic beverages outside of the confines of his or her abode or residence. Any alcoholic beverages found in possession of the person shall be seized as contraband.

(f) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local hour of 10:00 p.m. less the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and area provided for dancing. The term **RESTAURANT**, for the purpose of this division, means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a **RESTAURANT** within the meaning of this division. The **RESTAURANT** shall be required to display in a conspicuous place a notice informing minors of the provisions of this division pertaining to remaining in the barroom or dance area of the restaurant after the local hour of 10:00 p.m.

(g) Violation of this section shall be a misdemeanor and, upon conviction, shall result in the following penalties:

1. For the first offense, a fine of up to \$100;
2. For each subsequent offense, a fine of up to \$250 or confinement in jail for up to 120 days, or both; and
3. It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight inches by 11 inches in size which shall show, in 30-point or large type, substantially as follows.

(2) Persons under the age of 21 are subject to a fine of up to \$100, if they:

- (a) Enter licensed premises to buy, or have served to them, alcoholic beverages;
- (b) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages; and
- (c) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(I) No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(J) No licensee shall knowingly employ in connection with his or her business, in any capacity

whatsoever, any person who:

- (1) Has been convicted of any felony in the last two years;
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years;
- (3) Is under the age of 20 years except: Restaurant licensee's may employ individuals between 18 and 20 years of age to perform duties related to bussing, kitchen services, janitorial services, maid services and general restaurant services unrelated to the sale of alcohol wherein they have no immediate contact with the sale of alcoholic beverages;
- (4) Within two years prior to the date of his or her employment, has had any city license under this chapter revoked for cause. Violation of this division shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license; and
- (5) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a state ABC-approved responsible beverage training program. The city will not require enrollment in particular classes, but only require that the classes meet the goals in the state-sponsored S.T.A.R. program. All persons shall complete that training within 60 days of employment or in the first available state ABC-approved program following employment if no program is available within 60 days. All persons completing the training required shall be recertified not less than once every three years thereafter. The Manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the city's ABC Administrator a record or file on each employee that shall contain the pertinent training information.
Ord. passed 3-10-2003; Ord. passed 5-18-2006)

STAR

ARTICLE IX. MISCELLANEOUS

§ 4.1-36 ENTERTAINMENT.

(A) No license for the sale of alcohol in any form shall be issued to any person, corporation or other business entity operating a business in conformance with Chapter 20 of the code, entitled "Adult Entertainment Activities".

(B) Performing of acts prohibited by this section is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes.

(C) The second violation of this section within a 12-month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(1) Three or more violations of this section within a 12-month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(2) In the event that a violation of this section occurs, the City Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and 241.190), to determine whether the licensee, at whose business establishment the activity prohibited by this section occurred, shall have his or her or its license suspended or revoked.

(D) In the event three or more violations of this section occur at a business establishment within a 12-month period, the City Administrator, after a hearing, shall revoke the retail drink license or retain beer license or both.

(E) If any provision of this section, or the application thereof, is held invalid, the invalidity shall not affect other provisions or other applications of this section which can be given effect without the invalid provisions or applications, and to this end, the provisions of the section are declared to be severable.
(Ord. passed 6-11-2001)

ARTICLE X. ENFORCEMENT

§ 4.1-37 ENFORCEMENT.

City police officers and the City Administrator are authorized to enforce this chapter for alleged violations.

§ 4.1-38 PENALTIES.

The following penalties shall be in addition to any criminal prosecution instituted in Hardin District Court against an alleged violator and fines hereunder shall be payable to the City Administrator.

(A) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than \$100, nor more than \$200, or imprisoned in the County Jail for not more than six months, or both, and for the second and each subsequent violation, he or she shall be fined not less than \$200, nor more than \$500, or imprisoned in the County Jail for not more than six months, or both. The penalties provided for in this division shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(B) Any person, firm or corporation who violates any of the provisions of § 4.1-8 shall be fined not less than \$50, nor more than \$500.

(C) Any person, firm or corporation who violates any of the provisions of § 4.1-35 shall be fined not less than \$50, nor more than \$500.

(D) Any person, firm or corporation who violates any of the provisions of § 4.1-35(G) shall be fined not less than \$10, nor more than \$100, or imprisoned not less than five days nor more than 30 days, or both.

(E) Any person, firm or corporation who violates any of the provisions of § 4.1-35(J) shall be fined not less than \$100, nor more than \$500.

(F) Any person, firm or corporation violating any provisions of § 4.1-35(H) shall be fined not less than \$10, nor more than \$100, and each violation shall constitute a separate offense.

§ 4.1-39 HEARING.

Should the applicant or licensee request the City Administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply as shall the following.

(A) *Definitions.* All words are used as defined in the Alcoholic Beverage Control Law of the state (KRS Chapters 241, 242, 243 and 244), unless otherwise specified.

(B) *Appearances.* Any applicant or licensee may appear and be heard in person, or by duly-appointed attorney, and may produce under oath evidence relative and material to matters before the Board.

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

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

(E) *Subpoenas.* The City Administrator shall have subpoena power for the hearings and shall, at request of the applicant, made with names and addresses of those desired, issue the subpoenas.

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

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

§ 4.1-40 APPEALS.

Appeals may be taken from decisions of the City Administrator to the state's Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.500.

§ 4.1-41 SEVERABILITY.

Action by a court of competent jurisdiction declaring any section, division, phrase or word of this chapter to be invalid, unconstitutional and/or void shall not affect the remainder of this chapter which shall remain in full force and effect.

§ 4.1-42 FORCE AND EFFECT.

This chapter shall be in full force and effect from and after its adoption, re-adoption and publication, as required by law.

(Ord. passed 1-19-2001; Ord. passed 3-20-2001; Ord. passed 6-11-2001)

CHAPTER 4.1

REGULATIONS FOR CONTROL, LICENSING, OPERATION, ADMINISTRATION AND ENFORCEMENT OF THE SALE OF ALCOHOLIC BEVERAGES IN THIS CITY UNDER KRS 242.185 AND CREATING DUTIES AND RESPONSIBILITIES FOR THE CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

ARTICLE I, IN GENERAL

Sec. 4.1-1. Purpose.

The purpose of this ordinance is to set forth uniform regulations and requirements for the licensing and operation of establishments for the sale of alcoholic beverages within the City by the drink in restaurants with a seating capacity of one hundred person or more that generate seventy percent of their revenue from the sale of food and further, to establish the authority and duties of the City of Radcliff Alcoholic Beverage Control

Sec. 4.1.2 - Definitions.

1. *Short Title.* This Ordinance shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Radcliff.
2. *Definitions.* Words used throughout this Ordinance, unless the context requires otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Law (Chapters 241, 242, 243, and 244, Kentucky Revised Statutes) of the Commonwealth of Kentucky, and all amendments and supplements thereto.

Sec. 4.1.3 - Scope.

Irrespective of title or headings, the sections of this ordinance shall be construed to apply to the traffic in both malt beverages and distilled spirits and wines where the context permits such application. Nothing in this Ordinance shall excuse or relieve a licensee or the agent or employee of any licensee in the City, from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any Statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

Sec. 4.1.4 - Adoption of State Alcoholic Beverage Control Law.

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (Chapter 241, 242, 243 and 244, Kentucky Revised Statutes) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance, except as otherwise lawfully provided herein.

ARTICLE II

CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR - APPOINTMENT; SALARY, FUNCTION, OATH AND BOND

Sec. 4.1.5 Appointment and Salary and Function, Oath and Bond.

- (a) The Mayor shall appoint a City Alcoholic Beverage Control Administrator (hereafter City Administrator) subject to approval of the City Council of the City of Radcliff (hereafter City Council).
- (b) The salary for said office shall be fixed from time to time by the City Council.
- (c) The functions of the City Administrator shall be the same with respect to city licenses and regulations, as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereafter ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City Administrator may be less stringent than the Statutes relating to alcoholic beverage control, or than regulations of the

ABC Board. No regulation of the City Administrator shall become effective until it has first been approved by the City Council.

Sec. 4.1-6. Oath; Bond

- (a) The City Administrator before entering upon his duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than Five Thousand Dollars (\$5,000.00) faithfully to perform the duties of his office pursuant to the provisions of Section 62.060 of Kentucky Revised Statutes et seq.
- (b) The cost of bonds given under this section shall be borne by the City of Radcliff (hereafter the City).

**ARTICLE III.
LICENSES**

Sec. 4.1.7 - Definitions.

- 1. **Licenses.** As used in this section "license" means any premises licensed by the City to sell alcoholic beverages on a retail basis, whether the premise license(s) permit(s) distilled spirits, wine or malt beverage or any combination thereof that qualify as a bona fide restaurant.
- 2. "**Bona fide restaurant**" means a premise which can demonstrate to the City Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than seventy per cent (70%) of the total gross sales of such licensee restaurant for the annual license period, and the restaurant must have dining facilities with a seating capacity of at least 100 persons inside its building.
- 3. **Seating Capacity.** The seating capacity shall be measured by the number of chairs in the building excluding stools. The City Administrator shall review the licensee's records and monthly returns required under Section 22 to determine if the licensee has met this definition to permit renewal of such license.
- 4. **License.** The City shall issue licenses that are permitted under KRS 242.185(4), limited sale authorization, and as provided for in KRS 243.070, 18 (c).

**ARTICLE IV
APPLICATION/LICENSE**

Sec. 4.1-8. Application

- (a) The City Administrator shall not receive or take any action on any application for an original license to sell alcoholic beverages prior to the 21st day of January, 2001.
- (b) Before an application shall be considered, the applicant must publish a notice of its intent to apply for a alcoholic beverage license in a newspaper meeting the requirements of KRS Chapter 424.
 - 1. The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or, if the applicant is a corporation, the names and addresses of the principal offices and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license to be applied for.
 - 2. The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.
- (c) All licenses granted under this Ordinance shall be approved by the City Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the

ABC Board as amended and supplemented from time to time.

(d) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as State Statute and ABC Board by regulation requires. Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City Administrator shall pay the same to the City Finance Director.

(e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:

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

(f) Each kind of license shall be printed so as to be readily distinguishable from the other kinds.

Sec. 4.1.9 - Fees.

City Administrator shall transmit fees upon collection to the City Finance Director. City Licenses shall be issued by the City Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

Sec. 4.1.10 - Fingerprinting of Applicants.

Should the City Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he shall have the authority to require such person to appear in person at the police department of the City for the purpose of having his or her fingerprints taken.

(Ord. of 3-20-01)

Sec. 4.1.11 - Expiration Date; Date Fees Due, Fractional Fees.

(a) All City licenses shall expire on January 31 of each year. The renewal by the City Administrator of the license shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the license therefor.

(b) Application for a license after August 1 of any year, shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following February 1, except the no license shall be issued for a shorter period than six (6) months.

(c) 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.

Sec. 4.1.12- Payment of License Fees

(a) The license fee, or regulatory tax for every license issued under this Ordinance shall be payable by the person making application for such license and/or licensee, and no other person, firm or corporation shall pay for any license issued under this Ordinance.

(b) In addition to all other penalties provided in this Ordinance, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another and also the revocation of the license, if any, of the person, firm or corporation so paying for the license of another.

Sec. 4.1.13 - Refund of License Fees.

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on said business if the licensee provides sufficient proof to the City Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee or agent or employee of the licensee.

Sec. 4.1.14 - Lost or Destroyed Licenses.

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten Dollars (\$10.00) for issuing said duplicate.

Sec. 4.1.15 - Temporary Closing.

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

Sec. 4.1.16 - Revocation or Suspension

(a) Any license may be revoked or suspended by the City Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the department of revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City Administrator in the exercise of his sound discretion deems sufficient.

(b) A license may be revoked for any of the reasons for which the City Administrator would have been required to refuse a license if the facts had been known.

(c) Any license must be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.
- (2) Making any false, material statements in an application for a license;
- (3) Violation of the provisions of Section 13;
- (4) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions

of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

- (5) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, Sections 21, 22 or 36 of this ordinance or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.
- (6) Revocation of any license or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
- (7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Sec. 4.1.17 - Notice to Licensee; Surrender of License, Stock; Hearing

- (a) The City Administrator shall furnish to licensee a copy of this Ordinance at time license is issued with signed receipt from licensee. Any changes or amendments to same shall be forwarded to licensee at address on the license. Failure to receive or review such changes or amendments or review the Ordinance shall not be an excuse or justification for any violation or prevent, remit or decrease any penalty for a violation.
- (b) All restrictions and prohibitions relating to retail package and drink licenses under this Ordinance and KRS Chapter 241, 242, 243, 244 and rules and regulations promulgated by the ABC Board shall have application to the club licenses.
- (c) Within three (3) days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his license to the City Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of the Police at the request of the City Administrator immediately cause one of his officers to take physical possession of the license and return it to the City Administrator.
- (d) When a license has been revoked the former licensee may, with prior approval of the City Administrator dispose of and transfer his stock of alcoholic beverages to a licensee, but such a disposition of stock on hand shall not be delayed longer than ninety (90) days in the case of wholesalers or distributors nor longer than twenty (20) days in the case of retailers.
- (e) Appeal from the decision of the City Administrator shall be to the ABC Board.
- (f) If a license is revoked or suspended by an order of the City Administrator, the licensee shall at once suspend all operations authorized under his license.

Sec. 4.1.18 - Transfer or Assignment.

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City Administrator.

Sec. 4.1.19 - Refusal of License.

A City license shall be refused:

Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales, or the administration thereof.

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

A license (new issuance, transfer or renewal) may be refused by the City Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

Sec. 4.1-20 - Annual Fees.

- (a) Pursuant to the provisions of KRS 243.030, 243.040 and 243.070 the City annual license fees shall be the maximum amounts permitted by KRS 243.030, 243.040 and 243.070. (Ord. of 6-11-01)
- (b) Any licensee applying for combination of distilled spirits and malt beverage (whether for package, drink or club) shall pay the total of the combined fees for such City license.
- (c) In order to engage in sale or trafficking of alcoholic beverages in the City, a party must be a license holder of one or a combination of the licenses required by the City Administrator.

Sec. 4.1-21 - Regulatory License Fee.

- (a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issue under Section 7. Said license fee shall be a percentage of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the budget adoption for fiscal year 2001 - 2002, and each year thereafter, such percentage rates as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed under Section 7 and such regulatory fee shall be applied annually from July 1 to June 30.
- (b) Payment of such fee shall accompany the tax returns approved for such use by the City Council and shall be submitted to the City Administrator by the 20th day of each month for the preceding month' sales one-twelfth (1/12) of the fee required under Section 21 shall be deducted each month as credit.
- (c) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension or revocation.
- (d) Penalty for failure to file a return and pay monthly remittance by the due date is five percent (5%) of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five per cent (25%) of the tax, provided, however, that in no case shall the penalty be less than Ten Dollars (\$10.00).
- (e) Interest at the rate of eight per cent (8%) per annum will apply to any late payments.

Sec. 4.1-22. Change of Information.

- (a) Since a number of licenses issued with the City are in the name of corporation, it is necessary that stock ownership changes in such corporation be reported to the City Administrator. The City Administrator can therefore,

investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or a change in ownership of stock whereby any person secure ten per cent (10%) of the outstanding stock. Transfer of more than ten per cent (10%) of the total stock shall require a new license.

(c) The following information will be required concerning any new director, officer, or person securing any interest in an alcoholic beverage license:

- (1) Name and address.
- (2) Nature of interest.
- (3) Whether or not a citizens of the United States.
- (4) Date of birth.
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Radcliff resident indicate when residence established.
- (6) Whether or not he has any interest in any other license or corporation holding a license under this act.
- (7) Extent of stock ownership.

This information shall be filed with the City Administrator as an amendment of the application pursuant to which the license was granted.

Sec. 4.1-23. Dormancy.

(a) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City Administrator.

(c) Except that the provisions of subsection (a) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the City Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the date of notice to the City Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City Administrator deems appropriate in exercise of his sound discretion.

(d) All renewal of licenses must be on file with the City Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City of Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is

made for the transfer of said license to a new location.

ARTICLE V

PREMISES

Sec. 4.1-24. Approval of Premises.

The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the county health department, city building inspector, city and state fire marshal and all other inspections required by the Kentucky Building Code.

Sec. 4.1-25. Application of Zoning Regulations.

(a) For the purpose of regulating the location of the restaurant licenses in the City the various zones or districts as fixed and established by the Radcliff Planning and Zoning ordinance and the zoning map adopted thereby, as the same may from time to time be amended, are hereby adopted as part of this Ordinance.

(b) No license shall be issued to any person firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where such business is prohibited under the present zoning ordinances or other ordinance of the City or any ordinance supplementary or amendatory to same and any license issued in violation of this subsection shall be void. Provided, however, that any person, firm or corporation, who or which held a City license for, and actually carried on thereunder, said business during or within the last month of the preceding license period may be granted a similar license by the City Administrator for the same business at the same premises or location.

Sec. 4.1-26 Delinquent Taxes or Fees.

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Sec. 4.1-27 Books, Records and Reports.

(a) Every licensee under this Ordinance 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 reasonable rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City Administrator and such City employees who may assist the City Administrator in his review.

(b) For the purpose of assisting the City Administrator in enforcement of this Ordinance, every license required to report to the ABC Board under KRS 243.850 shall provide a copy such report to the City Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City Administrator.

Sec. 4.1-28 Police Inspections.

Police officers of the Radcliff Police Department shall concurrently have the jurisdiction coextensive with the state alcoholic beverage control administrator and the City Administrator to inspect any premise license under Section 7. (Ord. 3-20-01)

**ARTICLE VI
HOURS FOR THE SALE AND DELIVERY**

Sec. 4.1-29. Hours of Operation

(a) Premises for which there has been granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on the licensed premises, shall be permitted to remain open Monday through Saturday between the hours of 11:00 a.m. and 1:30 a.m. of the following day but shall be closed for retail sales of distilled spirits, wine and malt beverages by the drink during the hours of 1:30 a.m. to 5:00 p.m. each Sunday, and from 11:30 p.m. on Sunday until 11:00 a.m. the following day, and at any time when the polls are open for any primary or regular election in the City.

(b) All deliveries of alcoholic beverages in the City shall be made between the hours of 8:00 a.m. and 4:00 p.m. No deliveries shall occur on Sunday.

Sec. 4.1-30. Retail Sale of Alcoholic Beverages on Sunday.

(a) A bona fide restaurant may be granted a special Sunday sale retail drink license. The licensee shall be permitted to sell alcoholic beverages by the drink for consumption on the licensed premises on Sunday from 1:00 p.m. until 11:30 p.m. contingent upon obtaining a Special Sunday Sales License from the Kentucky Department of Alcohol Beverage Control. (Ord. 3-20-01) (Ord.3-10-03)

Sec. 4.1-31. Locked or Closed Off Department.

If any distilled spirits or malt beverages are found on the outside of the locked or closed off department of any licensed premises to sell distilled spirits, wine or malt beverages at retail at any hours during which the licensee is prohibited by the Kentucky Revised Statutes or by this Ordinance from selling said distilled spirits, wine or malt beverages, a prima facie presumption shall arise that such stillled spirits, wine or malt beverages were kept on the outside of the locked or closed off department for the purpose of sale in violation of this Ordinance and/or Kentucky Revised Statute 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 Administrator shall be and is hereby authorized to confiscate such distilled spirits, wine or malt beverages.

Sec. 4.1-32. Other Retail Sales On Licenses Premises.

Bona fide restaurant licensees may remain open for business during hours in which alcoholic beverages are not allowed to be sold for the purpose of conducting its primary business, so long as the licensee keeps all distilled spirits, wine, and iced and cooled malt beverages in locked or closed off compartment.

Sec. 4.1-33. Violation, Penalty, Confiscation.

If any alcoholic or malt beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control act or by this chapter from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed off section 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 the violation of this Chapter, the City Alcoholic Beverage control Administrator is hereby authorized to confiscate such alcoholic or malt beverages.

**ARTICLE VII
ADVERTISING RESTRICTIONS.**

Sec. 4.1-34. Advertising Restrictions.

- (a) All signage shall meet Article XXVIII of the Radcliff Zoning Ordinance and Development Regulation except that no license shall advertise any alcoholic beverage by trade name, trademark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line. (Ord. of 6-11-01)
- (b) Subsection (b) of this section shall not prohibit:
- (1) Advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons;
 - (2) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;
 - (3) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams;
 - (4) Advertising on vehicles operated by wholesalers and/or distributors. (Ord. of 6-11-01)
- Except as stated in subsection (a) no licensee shall:
- (1) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages. (Ord. of 6-11-01)
- (c) No licensee shall permit any advertising signs that flash, blink, rotate or otherwise present a possible distraction to any member of the public viewing the sign from outside the licensed establishment. (Ord. of 6-11-01)

**ARTICLE VIII
CONDITIONS, PROHIBITIONS AND RESTRICTIONS**

Sec 4.1-35. Conditions, Prohibitions and Restrictions.

All licenses granted under this ordinance shall be subject to the following conditions, prohibitions and/or restrictions and all other provisions of KRS Chapters 241, 242, 243 and 244 other ordinances and regulations of the City applicable thereto:

- (a) Every licensed restaurant shall be entitled to serve such beverages as such licensee is entitled to serve in a separate room or rooms at banquets or dinners or where meals are served; however, no restaurant shall maintain or operate or permit to be operated more than one 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 which is opened to the general public.
- (b) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises and no nuisance suffered, permitted or maintained thereon.
- (c) No gambling or game of chance shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.
- (d) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from the Radcliff 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 Administrator shall have the authority to confiscate any and all such radio receiving apparatus.
- (d) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the

licensed premises.

(e) It shall be unlawful for any licensee under this ordinance who sells alcoholic beverages of any kind, to giveaway 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.

(f) No licensee or agent or employee of a licensee 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.

(g) As used in this Section: "Premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

- (1) No person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (2) No person under 21 years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (3) No person under 21 years of age shall misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.
- (4) No person under 21 years of age shall use or attempt to use any false, fraudulent, or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (5) It shall be unlawful for any person under the age of twenty-one (21) years to possess in the City of Radcliff, Kentucky, any alcoholic beverages outside of the confines of his, or her, abode or residence. Any alcoholic beverages found in possession of such person shall be seized as contraband.
- (6) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local hour of 10:00 p.m. less the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and area provided for dancing. The term "restaurant" for the purpose of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this subsection. The restaurant shall be required to display in a conspicuous place a notice informing minors of the provisions of this subsection pertaining to remaining in the barroom or dance area of the restaurant after the local hour of 10:00 p.m.
- (7) Violation of this Section shall be a misdemeanor and, upon conviction, shall result in the following penalties:
 - (i) For the first offense a fine of up to one hundred dollars (\$100.00).
 - (ii) For each subsequent offense a fine of up to two hundred fifty dollars (\$250.00) or confinement in jail for up to one hundred twenty (120) days, or both.
 - (iii) It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or large type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(j) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(k) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

- (1) Has been convicted of any felony in the last two (2) years. (Ord. 3-10-03)
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years. (Ord 3-10-03)
- (3) Is under the age of twenty (20) years except: Restaurant licensee's may employ individuals between 18 and 20 years of age to perform duties related to bussing, kitchen services, janitorial services, maid services and general restaurant services unrelated to the sale of alcohol wherein they have no immediate contact with the sale of alcoholic beverages.
- (4) Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

ARTICLE IX MISCELLANEOUS

Sec. 4.1-36. Entertainment.

(a) No license for the sale of alcohol in any form shall be issued to any person, corporation or other business entity operating a business in conformance with Chapter 20 of the City of Radcliff Codification of Ordinances entitled "Adult Entertainment." (Ord. of 6-11-01)

(b) Performing of acts prohibited by this Section is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes.

(c) The second violation of this Section within a twelve (12) month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

- (1) Three or more violations of this Section within a twelve (12) month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.
- (2) In the event that a violation of this Section occurs, the City Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the activity prohibited by this Section occurred, shall have his/her or its license suspended or revoked.

(d) In the event three or more violations of this Section occur at a business establishment within a twelve (12) month period, the City Administrator, after a hearing, shall revoke the said retail drink license or retain beer license or both.

(e) If any provision of this Section, or the application thereof, is held invalid, such invalidity shall not affect other provisions or other applications of this Section which can be given effect without the invalid provisions or applications, and to this end, the provisions of the Section are declared to be severable.

ARTICLE X ENFORCEMENT

Sec. 4.1-37. Enforcement.

City police officers and the City Administrator are authorized to enforce this Ordinance for alleged violations.

Sec. 4.1-38. Penalties.

The following penalties shall be in addition to any criminal prosecution instituted in Hardin District court against an alleged violator and fines hereunder shall be payable to the City Administrator:

- (a) Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the County Jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the County Jail for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
- (b) Any person, firm or corporation who violates any of the provisions of Section 35 of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).
- (c) Any person, firm or corporation who violates any of the provisions of Section 8 of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).
- (d) Any person, firm or corporation who violates any of the provisions of Section 36 (g) of this Ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not less than five (5) days nor more than thirty (30) days, or both.
- (e) Any person, firm or corporation who violates any of the provisions of Section 36 (j) of this Ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).
- (f) Any person, firm or corporation violating any provisions of Section 36 (h) of this Ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and each violation shall constitute a separate offense.

Sec. 4.1-39. Hearing.

Should the applicant or licensee request the City Administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply as shall the following:

- (a) Definitions. All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS Chapters 241, 242, 243 and 244), unless otherwise specified.
- (f) Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the board.
- (c) Briefs. Briefs may be filed at the option of the applicant or licensee.
- (d) Rules of Evidence. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall govern hearings before the City Administrator; provided however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.
- (e) Subpoenas. The City Administrator shall have subpoena power for such hearings and shall at request of applicant made with names and addresses of those desired issue such subpoenas.
- (f) Transcript. Upon request and at the cost of the applicant or licensee the hearing may be transcribed.
- (g) Decisions. All decisions shall be written and based upon the evidence developed at the hearing.

Sec. 4.1-40. Appeals.

Appeals may be taken from decisions of the City Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.500.

Sec. 4.1-41. Severability.

Action by a Court of competent jurisdiction declaring any section, subsection, phrase or word of this ordinance to be invalid, unconstitutional and/or void shall not affect the remainder of this Ordinance which shall remain in full force and effect.

Sec. 4.1-42. Force and Effect.

This ordinance shall be in full force and effect from and after its adoption, re-adoption and publication, as required by law. (Ord. Of 01-19-01; Ord. of 03-20-01; Ord. of 6-11-01)

201

CHAPTER 4.1

REGULATIONS FOR CONTROL, LICENSING, OPERATION, ADMINISTRATION AND ENFORCEMENT OF THE SALE OF ALCOHOLIC BEVERAGES IN THIS CITY UNDER KRS 242.185 AND CREATING DUTIES AND RESPONSIBILITIES FOR THE CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

ARTICLE I, IN GENERAL

Sec. 4.1-1. Purpose.

The purpose of this ordinance is to set forth uniform regulations and requirements for the licensing and operation of establishments for the sale of alcoholic beverages within the City by the drink in restaurants with a seating capacity of one hundred person or more that generate seventy percent of their revenue from the sale of food and further, to establish the authority and duties of the City of Radcliff Alcoholic Beverage Control

Sec. 4.1.2 - Definitions.

- 1. *Short Title.* This Ordinance shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Radcliff.
- 2. *Definitions.* Words used throughout this Ordinance, unless the context requires otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Law (Chapters 241, 242, 243, and 244, Kentucky Revised Statutes) of the Commonwealth of Kentucky, and all amendments and supplements thereto.

Sec. 4.1.3 - Scope.

Irrespective of title or headings, the sections of this ordinance shall be construed to apply to the traffic in both malt beverages and distilled spirits and wines where the context permits such application. Nothing in this Ordinance shall excuse or relieve a licensee or the agent or employee of any licensee in the City, from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any Statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

Sec. 4.1.4 - Adoption of State Alcoholic Beverage Control Law.

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (Chapter 241, 242, 243 and 244, Kentucky Revised Statutes) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance, except as otherwise lawfully provided herein.

ARTICLE II
CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR - APPOINTMENT; SALARY, FUNCTION, OATH AND BOND

Sec. 4.1.5 Appointment and Salary and Function, Oath and Bond.

- (a) The Mayor shall appoint a City Alcoholic Beverage Control Administrator (hereafter City Administrator) subject to approval of the City Council of the City of Radcliff (hereafter City Council).
- (b) The salary for said office shall be fixed from time to time by the City Council.
- (c) The functions of the City Administrator shall be the same with respect to city licenses and regulations, as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereafter ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City

Administrator may be less stringent than the Statutes relating to alcoholic beverage control, or than regulations of the ABC Board. No regulation of the City Administrator shall become effective until it has first been approved by the City Council.

Sec. 4.1-6. Oath; Bond

(a) The City Administrator before entering upon his duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than Five Thousand Dollars (\$5,000.00) faithfully to perform the duties of his office pursuant to the provisions of Section 62.060 of Kentucky Revised Statutes et seq.

(b) The cost of bonds given under this section shall be borne by the City of Radcliff (hereafter the City).

**ARTICLE III.
LICENSES**

Sec. 4.1.7 - Definitions.

1. *Licenses.* As used in this section "license" means any premises licensed by the City to sell alcoholic beverages on a retail basis, whether the premise license(s) permit(s) distilled spirits, wine or malt beverage or any combination thereof that qualify as a bona fide restaurant.
2. *"Bona fide restaurant"* means a premise which can demonstrate to the City Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than seventy per cent (70%) of the total gross sales of such licensee restaurant for the annual license period, and the restaurant must have dining facilities with a seating capacity of at least 100 persons inside its building.
3. *Seating Capacity.* The seating capacity shall be measured by the number of chairs in the building excluding stools. The City Administrator shall review the licensee's records and monthly returns required under Section 22 to determine if the licensee has met this definition to permit renewal of such license.
4. *License.* The City shall issue licenses that are permitted under KRS 242.185(4), limited sale authorization, and as provided for in KRS 243.070, 18 (c).

**ARTICLE IV
APPLICATION/LICENSE**

Sec. 4.1-8. Application

(a) The City Administrator shall not receive or take any action on any application for an original license to sell alcoholic beverages prior to the 21st day of January, 2001.

(b) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Chapter 424.

1. The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or, if the applicant is a corporation, the names and addresses of the principal offices and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license to be applied for.
2. The applicant shall attach to the application a newspaper clipping of the advertisement and proof of

the publication as provided in KRS 424.170.

(c) All licenses granted under this Ordinance shall be approved by the City Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board as amended and supplemented from time to time.

(d) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as State Statute and ABC Board by regulation requires. Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City Administrator shall pay the same to the City Finance Director.

(e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:

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

(f) Each kind of license shall be printed so as to be readily distinguishable from the other kinds.

Sec. 4.1.9 - Fees.

City Administrator shall transmit fees upon collection to the City Finance Director. City Licenses shall be issued by the City Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

Sec. 4.1.10 - Fingerprinting of Applicants.

Should the City Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he shall have the authority to require such person to appear in person at the police department of the City for the purpose of having his or her fingerprints taken.

(Ord. of 3-20-01)

Sec. 4.1.11 - Expiration Date; Date Fees Due, Fractional Fees.

(a) All City licenses shall expire on January 31 of each year. The renewal by the City Administrator of the license shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the license therefor.

(b) Application for a license after August 1 of any year, shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following February 1, except the no license shall be issued for a shorter period than six (6) months.

(c) 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.

Sec. 4.1.12- Payment of License Fees

(a) The license fee, or regulatory tax for every license issued under this Ordinance shall be payable by the person making application for such license and/or licensee, and no other person, firm or corporation shall pay for any license issued under this Ordinance.

(b) In addition to all other penalties provided in this Ordinance, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another and also the revocation of the license, if any, of the person, firm or corporation so paying for the license of another.

Sec. 4.1.13 - Refund of License Fees.

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on said business if the licensee provides sufficient proof to the City Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee or agent or employee of the licensee.

Sec. 4.1.14 - Lost or Destroyed Licenses.

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten Dollars (\$10.00) for issuing said duplicate.

Sec. 4.1.15 - Temporary Closing.

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

Sec. 4.1.16 - Revocation or Suspension

(a) Any license may be revoked or suspended by the City Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the department of revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City Administrator in the exercise of his sound discretion deems sufficient.

(b) A license may be revoked for any of the reasons for which the City Administrator would have been required to refuse a license if the facts had been known.

- (c) Any license must be revoked or suspended for the following causes:
- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.
 - (2) Making any false, material statements in an application for a license;
 - (3) Violation of the provisions of Section 13;
 - (4) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.
 - (5) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, Sections 21, 22 or 36 of this ordinance or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.
 - (6) Revocation of any license or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
 - (7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Sec. 4.1.17 - Notice to Licensee; Surrender of License, Stock; Hearing

- (a) The City Administrator shall furnish to licensee a copy of this Ordinance at time license is issued with signed receipt from licensee. Any changes or amendments to same shall be forwarded to licensee at address on the license. Failure to receive or review such changes or amendments or review the Ordinance shall not be an excuse or justification for any violation or prevent, remit or decrease any penalty for a violation.
- (b) All restrictions and prohibitions relating to retail package and drink licenses under this Ordinance and KRS Chapter 241, 242, 243, 244 and rules and regulations promulgated by the ABC Board shall have application to the club licenses.
- (c) Within three (3) days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his license to the City Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of the Police at the request of the City Administrator immediately cause one of his officers to take physical possession of the license and return it to the City Administrator.
- (d) When a license has been revoked the former licensee may, with prior approval of the City Administrator dispose of and transfer his stock of alcoholic beverages to a licensee, but such a disposition of stock on hand shall not be delayed longer than ninety (90) days in the case of wholesalers or distributors nor longer than twenty (20) days in the case of retailers.
- (e) Appeal from the decision of the City Administrator shall be to the ABC Board.

(f) If a license is revoked or suspended by an order of the City Administrator, the licensee shall at once suspend all operations authorized under his license.

Sec. 4.1.18 - Transfer or Assignment.

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City Administrator.

Sec. 4.1.19 - Refusal of License.

A City license shall be refused:

Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales, or the administration thereof.

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

A license (new issuance, transfer or renewal) may be refused by the City Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

Sec. 4.1-20 - Annual Fees.

- (a) Pursuant to the provisions of KRS 243.030, 243.040 and 243.070 the City annual license fees shall be the maximum amounts permitted by KRS 243.030, 243.040 and 243.070. (Ord. of 6-11-01)
- (b) Any licensee applying for combination of distilled spirits and malt beverage (whether for package, drink or club) shall pay the total of the combined fees for such City license.
- (c) In order to engage in sale or trafficking of alcoholic beverages in the City, a party must be a license holder of one or a combination of the licenses required by the City Administrator.

Sec. 4.1-21 - Regulatory License Fee.

- (a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issue under Section 7. Said license fee shall be a percentage of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the budget adoption for fiscal year 2001 - 2002, and each year thereafter, such percentage rates as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed under Section 7 and such regulatory fee shall be applied annually from July 1 to June 30.
- (b) Payment of such fee shall accompany the tax returns approved for such use by the City Council and shall be submitted to the City Administrator by the 20th day of each month for the preceding month' sales one-twelfth (1/12) of the fee required under Section 21 shall be deducted each month as credit.
- (c) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension or revocation.
- (d) Penalty for failure to file a return and pay monthly remittance by the due date is five percent (5%) of the tax

for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five per cent (25%) of the tax, provided, however, that in no case shall the penalty be less than Ten Dollars (\$10.00).

(e) Interest at the rate of eight per cent (8%) per annum will apply to any late payments.

Sec. 4.1-22. Change of Information.

(a) Since a number of licenses issued with the City are in the name of corporation, it is necessary that stock ownership changes in such corporation be reported to the City Administrator. The City Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or a change in ownership of stock whereby any person secure ten per cent (10%) of the outstanding stock. Transfer of more than ten per cent (10%) of the total stock shall require a new license.

(c) The following information will be required concerning any new director, officer, or person securing ~~interest~~ interest in an alcoholic beverage license:

- (1) Name and address.
- (2) Nature of interest.
- (3) Whether or not a citizens of the United States.
- (4) Date of birth.
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Radcliff resident indicate when residence established.
- (6) Whether or not he has any interest in any other license or corporation holding a license under this act.
- (7) Extent of stock ownership.

This information shall be filed with the City Administrator as an amendment of the application pursuant to which the license was granted.

Sec. 4.1-23. Dormancy.

(a) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City Administrator.

(c) Except that the provisions of subsection (a) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the City Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the date of notice to the City Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City Administrator deems appropriate in exercise of his sound discretion.

(d) All renewal of licenses must be on file with the City Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City of Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

ARTICLE V

PREMISES

Sec. 4.1-24. Approval of Premises.

The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the county health department, city building inspector, city and state fire marshal and all other inspections required by the Kentucky Building Code.

Sec. 4.1-25. Application of Zoning Regulations.

(a) For the purpose of regulating the location of the restaurant licenses in the City the various zones or districts as fixed and established by the Radcliff Planning and Zoning ordinance and the zoning map adopted thereby, as the same may from time to time be amended, are hereby adopted as part of this Ordinance.

(b) No license shall be issued to any person firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where such business is prohibited under the present zoning ordinances or other ordinance of the City or any ordinance supplementary or amendatory to same and any license issued in violation of this subsection shall be void. Provided, however, that any person, firm or corporation, who or which held a City license for, and actually carried on thereunder, said business during or within the last month of the preceding license period may be granted a similar license by the City Administrator for the same business at the same premises or location.

Sec. 4.1-26 Delinquent Taxes or Fees.

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Sec. 4.1-27 Books, Records and Reports.

(a) Every licensee under this Ordinance 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 reasonable rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City Administrator and such City employees who may assist the City Administrator in his review.

(b) For the purpose of assisting the City Administrator in enforcement of this Ordinance, every license required to report to the ABC Board under KRS 243.850 shall provide a copy such report to the City Administrator. Copies of

any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City Administrator.

Sec. 4.1-28 Police Inspections.

Police officers of the Radcliff Police Department shall concurrently have the jurisdiction coextensive with the state alcoholic beverage control administrator and the City Administrator to inspect any premise license under Section 7. (Ord. 3-20-01)

**ARTICLE VI
HOURS FOR THE SALE AND DELIVERY**

Sec. 4.1-29. Hours of Operation

(a) Premises for which there has been granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on the licensed premises, shall be permitted to remain open Monday through Saturday between the hours of 11:00 a.m. and ~~1:30~~^{1:30} a.m. of the following day but shall be closed for retail sales of distilled spirits, wine and malt beverages by the drink during the hours of 1:30 a.m. to 5:00 p.m. each Sunday, and from 11:30 p.m. on Sunday until 11:00 a.m. the following day, and at any time when the polls are open for any primary or regular election in the City.

(b) All deliveries of alcoholic beverages in the City shall be made between the hours of 8:00 a.m. and 4:00 p.m. No deliveries shall occur on Sunday.

Sec. 4.1-30. Retail Sale of Alcoholic Beverages on Sunday.

(a) A bona fide restaurant may be granted a special Sunday sale retail drink license. The licensee shall be permitted to sell alcoholic beverages by the drink for consumption on the licensed premises on Sunday from 1:00 p.m. until 11:30 p.m. contingent upon obtaining a Special Sunday Sales License from the Kentucky Department of Alcohol Beverage Control. (Ord. 3-20-01) (Ord.3-10-03)

Sec. 4.1-31. Locked or Closed Off Department.

If any distilled spirits or malt beverages are found on the outside of the locked or closed off department of any licensed premises to sell distilled spirits, wine or malt beverages at retail at any hours during which the licensee is prohibited by the Kentucky Revised Statutes or by this Ordinance from selling said distilled spirits, wine or malt beverages, a prima facie presumption shall arise that such stilled spirits, wine or malt beverages were kept on the outside of the locked or closed off department for the purpose of sale in violation of this Ordinance and/or Kentucky Revised Statute 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 Administrator shall be and is hereby authorized to confiscate such distilled spirits, wine or malt beverages.

Sec. 4.1-32. Other Retail Sales On Licenses Premises.

Bona fide restaurant licensees may remain open for business during hours in which alcoholic beverages are not allowed to be sold for the purpose of conducting its primary business, so long as the licensee keeps all distilled spirits, wine, and iced and cooled malt beverages in locked or closed off compartment.

Sec. 4.1-33. Violation, Penalty, Confiscation.

If any alcoholic or malt beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control act or by this

chapter from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed off section 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 the violation of this Chapter, the City Alcoholic Beverage control Administrator is hereby authorized to confiscate such alcoholic or malt beverages.

ARTICLE VII ADVERTISING RESTRICTIONS.

Sec. 4.1-34. Advertising Restrictions.

(a) All signage shall meet Article XXVIII of the Radcliff Zoning Ordinance and Development Regulation except that no license shall advertise any alcoholic beverage by trade name, trademark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line. (Ord. of 6-11-01)

(b) Subsection (b) of this section shall not prohibit:

- (1) Advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons;
- (2) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;
- (3) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams;
- (4) Advertising on vehicles operated by wholesalers and/or distributors. (Ord. of 6-11-01)

Except as stated in subsection (a) no licensee shall:

- (1) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages. (Ord. of 6-11-01)

(c) No licensee shall permit any advertising signs that flash, blink, rotate or otherwise present a possible distraction to any member of the public viewing the sign from outside the licensed establishment. (Ord. of 6-11-01)

ARTICLE VIII CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Sec 4.1-35. Conditions, Prohibitions and Restrictions.

All licenses granted under this ordinance shall be subject to the following conditions, prohibitions and/or restrictions and all other provisions of KRS Chapters 241, 242, 243 and 244 other ordinances and regulations of the City applicable thereto:

(a) Every licensed restaurant shall be entitled to serve such beverages as such licensee is entitled to serve in a separate room or rooms at banquets or dinners or where meals are served; however, no restaurant shall maintain or operate or permit to be operated more than one 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 which is opened to the general public.

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

(c) No gambling or game of chance shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(d) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from the Radcliff 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 Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(e) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(f) It shall be unlawful for any licensee under this ordinance who sells alcoholic beverages of any kind, to giveaway 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.

(g) No licensee or agent or employee of a licensee 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.

(h) As used in this Section: "Premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

- (1) No person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (2) No person under 21 years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (3) No person under 21 years of age shall misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.
- (4) No person under 21 years of age shall use or attempt to use any false, fraudulent, or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (5) It shall be unlawful for any person under the age of twenty-one (21) years to possess in the City of Radcliff, Kentucky, any alcoholic beverages outside of the confines of his, or her, abode or residence. Any alcoholic beverages found in possession of such person shall be seized as contraband.
- (6) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local hour of 10:00 p.m. less the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and area provided for dancing. The term "restaurant" for the purpose of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this subsection. The restaurant shall be required to display in a conspicuous place a notice informing minors of the provisions of this subsection pertaining to remaining in the barroom or dance area of the restaurant after the local hour of 10:00 p.m.
- (7) Violation of this Section shall be a misdemeanor and, upon conviction, shall result in the following penalties:
 - (i) For the first offense a fine of up to one hundred dollars (\$100.00).
 - (ii) For each subsequent offense a fine of up to two hundred fifty dollars (\$250.00) or confinement in jail for up to one hundred twenty (120) days, or both.
 - (iii) It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or large type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(j) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(k) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

- (1) Has been convicted of any felony in the last two (2) years. (Ord. 3-10-03)
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years. (Ord 3-10-03)
- (3) Is under the age of twenty (20) years except: Restaurant licensee's may employ individuals between 18 and 20 years of age to perform duties related to bussing, kitchen services, janitorial services, maid services and general restaurant services unrelated to the sale of alcohol wherein they have no immediate contact with the sale of alcoholic beverages.
- (4) Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

ARTICLE IX MISCELLANEOUS

Sec. 4.1-36. Entertainment.

(a) No license for the sale of alcohol in any form shall be issued to any person, corporation or other business entity operating a business in conformance with Chapter 20 of the City of Radcliff Codification of Ordinances entitled "Adult Entertainment." (Ord. of 6-11-01)

(b) Performing of acts prohibited by this Section is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes.

(c) The second violation of this Section within a twelve (12) month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

- (1) Three or more violations of this Section within a twelve (12) month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.
- (2) In the event that a violation of this Section occurs, the City Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the activity prohibited by this Section occurred, shall have his/her or its license suspended or revoked.

(d) In the event three or more violations of this Section occur at a business establishment within a twelve (12) month period, the City Administrator, after a hearing, shall revoke the said retail drink license or retain beer license or both.

(e) If any provision of this Section, or the application thereof, is held invalid, such invalidity shall not affect other provisions or other applications of this Section which can be given effect without the invalid provisions or applications, and to this end, the provisions of the Section are declared to be severable.

**ARTICLE X
ENFORCEMENT**

Sec. 4.1-37. Enforcement.

City police officers and the City Administrator are authorized to enforce this Ordinance for alleged violations.

Sec. 4.1-38. Penalties.

The following penalties shall be in addition to any criminal prosecution instituted in Hardin District court against an alleged violator and fines hereunder shall be payable to the City Administrator:

- (a) Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the County Jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the County Jail for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
- (b) Any person, firm or corporation who violates any of the provisions of Section 35 of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).
- (c) Any person, firm or corporation who violates any of the provisions of Section 8 of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).
- (d) Any person, firm or corporation who violates any of the provisions of Section 36 (g) of this Ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not less than five (5) days nor more than thirty (30) days, or both.
- (e) Any person, firm or corporation who violates any of the provisions of Section 36 (j) of this Ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).
- (f) Any person, firm or corporation violating any provisions of Section 36 (h) of this Ordinance shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and each violation shall constitute a separate offense.

Sec. 4.1-39. Hearing.

Should the applicant or licensee request the City Administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply as shall the following:

- (a) **Definitions.** All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS Chapters 241, 242, 243 and 244), unless otherwise specified.
- (f) **Appearances.** Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the board.
- (c) **Briefs.** Briefs may be filed at the option of the applicant or licensee.

- (d) Rules of Evidence. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall govern hearings before the City Administrator; provided however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.
- (e) Subpoenas. The City Administrator shall have subpoena power for such hearings and shall at request of applicant made with names and addresses of those desired issue such subpoenas.
- (f) Transcript. Upon request and at the cost of the applicant or licensee the hearing may be transcribed.
- (g) Decisions. All decisions shall be written and based upon the evidence developed at the hearing.

Sec. 4.1-40. Appeals.

Appeals may be taken from decisions of the City Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.500.

Sec. 4.1-41. Severability.

Action by a Court of competent jurisdiction declaring any section, subsection, phrase or word of this ordinance to be invalid, unconstitutional and/or void shall not affect the remainder of this Ordinance which shall remain in full force and effect.

Sec. 4.1-42. Force and Effect.

This ordinance shall be in full force and effect from and after its adoption, re-adoption and publication, as required by law. (Ord. Of 01-19-01; Ord. of 03-20-01; Ord. of 6-11-01)