

COMMISSIONERS ORDINANCE O-2019-027

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AMENDING § 111.03 AND § 111.27 OF THE CODE OF ORDINANCES CONCERNING ALCOHOLIC BEVERAGES.

BE IT ORDAINED BY THE CITY OF NEWPORT, KENTUCKY:

SECTION I

That §111.03 and §111.27 of the Code of Ordinances of the City of Newport, Kentucky shall be and hereby is amended to read, as follows:

§ 111.03 HOURS AND DAYS OF OPERATION.

~~[(A) No holder of a Non-Quota (NQ) Retail Malt Beverage Package license, Non-Quota 4 (NQ-4) Retail Malt Beverage Drink license, or Special Temporary license, or any agents of the licensee, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver, furnish or allow any patron, customer or any other person to have, possess, use or consume on or about the licensed premises any malt beverage; nor shall any patron, customer or other person, other than the licensee, or an actual, bona fide employee of the licensee, actually then employed and actually then at work, be permitted in or upon the licensed premises outside of the operational hours permitted by the license.~~

~~(B) No holder of a Quota Retail Drink license or Special Temporary license, or any agents of the licensee, servants or employees, or any other person or persons having control of the premises, shall sell, give away, dispense, deliver, furnish or allow any patron, customer or any other person to have possession, use or consume on or about the licensed premises any distilled spirits or wine; nor shall the premises remain open for any purpose; nor shall any patron, customer or other~~

~~person, other than the licensee, or an actual, bona fide employee of the licensee, actually then employed and actually then at work, be permitted in or upon the licensed premises from 6:00 a.m. to 1:00 a.m. Monday through Sunday; but no such sale shall be permitted on Sunday unless the licensee holds a Special Sunday Retail Drink license.~~

~~(C) No holder of a Quota Retail Package license, or any of agents of the licensee, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver, furnish or allow any patron, customer or any other person to purchase distilled spirits and wines; nor shall the premises remain open for any purpose; nor shall any patron, customer or other person, other than the licensee, or an actual, bona fide employee of the licensee, actually then employed and actually then at work, be permitted in or upon the licensed premises outside of the operational hours permitted by the license.~~

~~(D) However, any premises for which there has been issued a license for the sale of distilled spirits, malt beverages or wine, by the City, after normal hours of operation under the particular license held has expired, may remain open only so long as the licensee provides a separate area within the licensed premises which is capable of being locked and closed off, within which shall be kept all stocks of distilled spirits, malt beverages and wine, and all apparatus connected with his or her business as a licensee and the area shall be kept locked during this period of time.]~~

(A) Regular days and hours of allowable operation for Non-Quota 2 (NQ-2) Retail Drink, Limited Restaurant, Non-Quota 3 (NQ-3) Retail Drink, Non-Quota (NQ) Retail Malt Beverage Package, Non-Quota 4 (NQ-4) Retail Malt Beverage Drink, Special Temporary, Quota Retail Drink, or Quota Retail Package shall be Monday through Saturday from 6 a.m. to 1 a.m., or until 2:30 a.m. with an Extended Hours

License, and on Sunday from 9 a.m. until 1 a.m. Monday only with a Special Sunday Retail Drink License.

(B) For all license types, no holder of an alcoholic beverage license or any agents of the licensee, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver, furnish or allow any patron, customer or any other person to have, possess, use or consume on or about the licensed premises any alcoholic beverage; nor shall any patron, customer or other person, other than the licensee, or an actual, bona fide employee of the licensee, actually then employed and actually then at work, be permitted in or upon the licensed premises outside of the operational hours permitted by the license. The prohibited hours being from 1 a.m. to 6 a.m. Monday through Saturday unless the business holds an Extended Hours and then the prohibited hours shall be from 2:30 a.m. to 6 a.m.; and before 9 a.m. if the business holds a Special Sunday Retail Drink License.

(C) Any premises for which there has been issued a license for the sale of distilled spirits, malt beverages or wine, by the City, after normal hours of operation under the particular license held has expired, may remain open only so long as the licensee provides a separate area within the licensed premises which is capable of being locked and closed-off, within which shall be kept all stocks of distilled spirits, malt beverages and wine, and all apparatus connected with his or her business as a licensee and the area shall be kept locked during this period of time.

§ 111.27 BUSINESSES AUTHORIZED BY DISTILLED SPIRIT AND WINE LICENSES.

(A) A Distiller's license shall authorize the licensee to engage in the business of a distiller at the premises specifically designated in the license, and to transport for

himself, only, the alcoholic beverages which he or she is permitted to manufacture or sell. Class A Distiller's License shall provide for production of greater than 50,000 gallons per year and Class B Distiller's License shall be required for production of 50,000 gallons or less per year. A licensed distiller is permitted to sell retail souvenir package bottles of any distilled spirit produced or bottled at that distillery location or at a different Kentucky licensed distillery of the same company. All souvenir package bottles sold by distillery at retail must be available for sale from a licensed retailer. Distillers are permitted souvenir package sales in quantities not to exceed 4.5 liters per visitor per day. The hours of sale for souvenir packages by distillery are controlled by KRS 244.290 which permits alcohol sales from 6:00 a.m. to 12:00 a.m. midnight, Monday through Saturday, as the state default times.

(B) A Rectifier's license shall authorize the licensee to engage in the business of a rectifier at the premises specifically designated in the license, and to transport for himself, only, the alcoholic beverages which he or she is permitted to manufacture or sell. The "Class A" Rectifier's license is available to operations that rectify more than 50,000 gallons of distilled spirits per year. The "Class B (craft rectifier)" type is available to operations that rectify 50,000 gallons or less of distilled spirits per year.

(C) A Wholesaler's license shall authorize the licensee to purchase, receive, store or possess distilled spirits and wines, to sell them at wholesale, from the licensed premises only, and to transport from the licensed premises for himself alcoholic beverages which his or her license authorizes him or her to sell.

(D)(1)A Non-Quota 2 (NQ-2) Retail Drink license shall authorize the licensee (the business must be a qualifying restaurant, hotels/motels, riverboat, distillery, or a business located within or adjacent to an entertainment destination center licensed premises) to perform the following functions:

(a) Purchase, receive, possess and sell distilled spirits, wines and malt beverages at retail by the drink for consumption on the licensed premises. Such a licensee shall purchase distilled spirits and wines from licensed wholesalers only and unless he or she also holds a retail package license, he or she shall not buy or possess distilled spirits in containers of a capacity smaller than 20 ounces, but mixed drinks may be purchased in containers of a capacity not smaller than 12 ounces. A Non-Quota 2 Retail Drink license shall not authorize the sale of distilled spirits or wines by the package.

(b) A Non-Quota 2 Retail Drink license shall permit the sale of alcoholic beverages from 6:00 a.m. to 1:00 a.m. Monday through Sunday; and no such sale shall be permitted on Sunday unless the licensee holds a Special Sunday Retail Drink license.

(2) Requirements for restaurants, hotels/motels, riverboats, distilleries, and businesses located within or adjacent to an entertainment destination center licensed premises applying for a Non-Quota 2 (NQ-2) Retail Drink license are as set forth in KRS 243.084.

(E) (1) "Limited restaurant" as permitted by KRS 243.070(1)(t) and defined by KRS 241.010(35) as:

(a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of 100 persons for dining;
or

(b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of 50 persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal.

(2) A Limited Restaurant license shall permit the sale of alcoholic beverages from 6:00 a.m. to 1:00 a.m. Monday through Sunday; and no such sale shall be permitted on Sunday unless the licensee holds a Special Sunday Retail Drink license.

(F) (1) A Quota Retail Package license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wines at retail, in unbroken packages only, and only for consumption off the licensed premises between the hours of: 6:00 a.m. and 1:00 a.m. Monday through Saturday; and 11:00 a.m. to 1:00 a.m. on Sunday.

(2) The licensee shall purchase distilled spirits and wines in retail packages only and only from licensed wholesalers.

(3) The licensee may sell only to consumers and may make deliveries only at the premises designated in his or her license.

(G) (1) Any Quota Retail Drink license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wines at retail by the drink for consumption on the licensed premises. Such a licensee shall purchase distilled spirits and wines from licensed wholesalers only and unless he or she also holds a retail package license, he or she shall not buy or possess distilled spirits in containers of a capacity smaller than 20 ounces, but mixed drinks may be purchased in containers of a capacity not smaller than 12 ounces. A retail drink license shall not authorize the sale of distilled spirits or wines by the package.

(2) A Quota Retail Drink license shall permit the sale of alcoholic beverages from 6:00 a.m. to 1:00 a.m. Monday through Sunday; and no such sale shall be permitted on Sunday unless the licensee holds a Special Sunday Retail Drink license.

(H)(1) Non-Quota 3 (NQ-3) Retail Drink licenses, may be issued to any licensed bed and breakfast business or any non-profit social, fraternal, military or political organization or club, which for more than 1 year prior to the date of application has maintained and operated rooms from which the general public is excluded, and shall authorize the licensee to purchase, receive, possess and sell distilled spirits, wines and/or malt beverages at retail by the drink for consumption on the licensed premises by members only. Members shall be defined as those persons having membership in any organization set forth above pursuant to the by-laws thereof.

(2) The City, including officers of the Newport Police Department, shall be admitted to the rooms for the purpose of making inspections of licenses, the licensed premises and to determine the compliance with all laws, ordinances and

regulations pertaining to the sale, use and traffic in alcoholic beverages, without the necessity of a search warrant and the holders of any such licenses, by applying for and receiving the same, expressly waive the requirements of any search warrant for the making of the inspections aforesaid.

(3) Any Non-Quota 3 (NQ-3) Retail Drink license shall not authorize the sale of distilled spirits, wine and/or malt beverages by the package. In addition to the restrictions and prohibitions provided herein, any rooms provided for hereunder and this section must be separate and apart from any other premises licensed for the sale of malt beverages and distilled spirits and wine.

(4) For any such non-profit social, fraternal, military or political organization or club the licensee shall be permitted the sale of distilled spirits, wines and/or malt beverages from 6:00 a.m. to 1:00 a.m. Monday through Sunday; but no such sale shall be permitted on Sunday unless the licensee holds a Special Sunday Retail Drink license.

(l)(1) A Special Temporary Alcoholic Beverage Auction license may be issued to a charitable or nonprofit organization upon the payment of the fee set forth in §111.51 and satisfaction of the requirements prescribed by ordinance.

(2) A Special Temporary Alcoholic Beverage Auction license shall authorize the charitable or nonprofit organization to:

- (a) Purchase, transport, receive, possess, store, sell and deliver malt beverages, distilled spirits and wine to be sold at auction;
- (b) Obtain malt beverages, distilled spirits and wine from distillers, rectifiers, wineries, breweries, microbreweries, wholesalers, distributors, retailer or any other person by gift or donation, for the purpose of charity auctions; and

(c) Receive payment for malt beverages, distilled spirits and wine sold at auctions.

(3) Each malt beverages, distilled spirits and wine auction conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS 241 to 244 and the administrative regulations issued under those chapters and shall be authorized only on the dates and only during the hours that the sale of alcoholic beverages is otherwise authorized in the City.

(4) (a) The location at which the malt beverages, distilled spirits and wine are auctioned under this section shall not constitute a public place for the purpose of KRS 222.

(b) Malt beverages, distilled spirits and wine auctions may be conducted on licensed or unlicensed premises.

(c) The charitable or nonprofit organization possessing a Special Temporary Alcoholic Beverage Auction license shall post of the license at the location of the auction. During this period, not more than one auction shall be held.

(5) A Special Temporary Alcoholic Beverage Auction license shall not be issued for any period longer than 30 days. During this period not more than 1 auction shall be held

(6) All restrictions and prohibitions applying to a Quota Retail Package and Quota Retail drink license, not inconsistent with this section, shall apply.

(J) Bottling House License and Bottling House Distilled Spirits License/Wine Storage License shall be as set forth in KRS 243.035.

(K) A Special Sunday Retail Drink license shall be required to permit the sale of alcoholic beverages commencing at 9 a.m. on Sunday. Any person holding a

Quota Retail Drink license, Non-Quota 2 Retail Drink license, Limited Restaurant license, or a Non-Quota 3 (NQ-3) Retail Drink License, ~~or a Non-Quota 4 Retail Malt Beverage license~~ for the sale of malt beverages, distilled spirits, and/or wine by the drink for consumption on the premises as a part thereof may apply for a Special Sunday Retail Drink license. A Special Sunday Retail Drink license shall not be required by the holder of only a Non-Quota 4 Retail Malt Beverage license to permit the sale of malt beverages by the drink for consumption on the premises.

SECTION II

All Ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION III

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk, recorded, published by Summary, and shall be effective upon publication.

PASSED: First reading November 18, 2019
PASSED: Second reading December 16, 2019

Jerry R. Peluso, Mayor

ATTEST:

Amy B. Able, City Clerk

PUBLISHED: Online on the City website, www.newportky.gov, with URL reference published in the Campbell County Recorder the 26th of December, 2019 as statutorily allowable under Section 143 of HB 487 approved in 2018 by the Kentucky Legislature and became law on April 27, 2018.