

COMMISSIONERS ORDINANCE O-2020-009

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AMENDING §111.03, §111.06, §111.27, AND §111.51 OF THE CODE OF ORDINANCES CONCERNING ALCOHOLIC BEVERAGES.

BE IT ORDAINED BY THE CITY OF NEWPORT, KENTUCKY:

SECTION I

That §111.03, §111.06, §111.27, and §111.51 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) Regular days and hours of allowable operation for Non-Quota 1 (NQ-1), 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.

§ 111.06 REMOVAL OF ALCOHOLIC BEVERAGES FROM LICENSED PREMISES.

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

BUSINESS ESTABLISHMENT. A business within the City where distilled spirits, wine, and/or beverages are sold for consumption on the licensed premises pursuant to Quota Retail Drink, Quota Retail Package, Non-Quota (NQ) Retail Malt Beverage Package, Non-Quota 1 (NQ-1), Retail Drink Non-Quota 2 (NQ-2) Retail Drink, Non-Quota 3 (NQ-3) Retail Drink, or Non-Quota 4 (NQ-4) Retail Malt Beverage Drink license that has been issued by the City.

LICENSE. Quota Retail Drink, Quota Retail Package, Non-Quota (NQ) Retail Malt Beverage Package, Non-Quota 1 (NQ-1), Non-Quota 2 (NQ-2) Retail Drink, Non-Quota 3 (NQ-3) Retail Drink, or Non-Quota 4 (NQ-4) Retail Malt Beverage Drink license issued by the City.

LICENSED PREMISES. The land, including adjacent owned or leased parking lots, and building in and upon which any business establishment regulated by alcoholic beverage statutes is carried on.

LICENSEE. Any person to whom a Quota Retail Drink, Quota Retail Package, Non-Quota (NQ) Retail Malt Beverage Package, Non-Quota 1 (NQ-1), Non-Quota 2 (NQ-2) Retail Drink, Non-Quota 3 (NQ-3) Retail Drink, or Non-Quota 4 (NQ-4) Retail Malt Beverage Drink license has been issued by the City, including the officers and agents of the licensee.

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

(B) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if the alcoholic beverage is in any opened container.

(C) There is exempted from this section any person or licensee holding any license herein which has an outside public facility adjacent and connected to the licensed premises (such as a “beer garden” or “patio”) and which is used primarily during certain seasons of the year, for consumption of alcoholic beverages by its patrons in such an outdoor setting. For the purpose of this section, the same shall be considered as a part of the licensed premises as though it were located indoors.

(D) There is exempted from this section any person or licensee which holds a Special Temporary license, which license permits the operation of an outdoor festival.

(E) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of the alcoholic beverages on any parking lot which is adjacent, adjoining, connected with or used by the patrons of the business establishment which is under the direct control of the licensee.

- (F) No person shall drink any alcoholic beverage on any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.
- (G) No licensee with a Quota Retail Package or a combination of Quota Retail Package and Quota Retail Drink license shall sell, give away or otherwise serve its patrons any alcoholic beverage in any disposable type cup or disposable drinking container or sell, give away or otherwise serve its patrons ice in any disposable type cup or disposable drinking container.

§ 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 1 (NQ-1) Retail Drink license may be issued to an applicant operating as, or in:

- (a) A convention center or convention hotel complex;
- (b) A horse racetrack
- (c) An automobile racetrack
- (d) A railroad system
- (e) A commercial airlines system or charter flight system; or
- (f) A state park.

(2) The licensee holding an NQ-2 is authorized to perform the following functions: purchase, receive, possess and sell alcoholic beverages at retail by the drink for consumption on the licensed premises.

(3) The license shall permit all alcoholic beverage sales on the premises without additional supplemental licenses.

(4) A qualifying convention center or a convention hotel complex holding an NQ-1 retail drink license may also hold a supplemental hotel in-room service license.

(E)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)~~G (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)~~H (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.

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

(~~K~~L) 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 1 Retail Drink license, Non-Quota 2 Retail Drink license, Limited Restaurant license, or a Non-Quota 3 (NQ-3) Retail Drink 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.

§ 111.51 FEES.

(A) For the privilege of manufacturing and/or trafficking in alcoholic beverages within the City, the following licenses are provided, the fees for which shall be as herein indicated:

<i>License Type</i>	<i>Per Annum</i>
<i>Malt beverage licenses</i>	
Brewer's license	\$500
Distributor's license	\$400
Non-Quota (NQ) Retail Malt Beverage Package license	\$200
Non-Quota 4 (NQ-4) Retail Malt Beverage Drink license	\$200
Secondary NQ/NQ-4 Malt Beverage License	\$50
Microbrewery	\$500
<i>Distilled Spirits and wine licenses</i>	
Distiller's license (Class A or Class B)	\$500
Rectifier's license (Class A)	\$3,000
Rectifier's license (Class B)	\$960
Non-Quota 1 (NQ-1) Retail Drink license	<u>\$2,000</u>
Non-Quota 2 (NQ-2) Retail Drink license	\$1,000
Non-Quota 3 (NQ-3) Retail Drink license	\$300
Limited Restaurant	\$1,200
Quota Retail Package license	\$1,000
Quota Retail Drink license	\$1,000
Wholesaler's license	\$3,000
Bottling house license and bottling house distilled spirits license/wine storage license	\$1,000
Special Sunday Retail drink	\$300
Supplemental bar licenses (each, up to 5)	\$1,000
Caterer's license	\$800
<i>Temporary licenses</i>	

Special Temporary \$150 for first booth or point of sale location, \$50 for each additional booth or point of sale location whether the same shall dispense malt beverages, wine, and/or distilled spirits therefrom	\$150, \$50 per each additional
Special Temporary Alcoholic Beverage Auction license	\$100
<i>Other licenses</i>	
Extended Hours license	\$3,000

(B) A non-refundable application fee of \$100 shall be charged to process each new application under this section. The application fee shall be applied to the licensing fee if the application is approved and shall be retained by the City's Finance and Administration Department if the application is denied by the City or voluntarily withdrawn by the applicant.

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 June 15, 2020
PASSED: Second reading June 16, 2020

Jerry R. Peluso, Mayor

ATTEST:

Amy B. Able, City Clerk

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