

COMMISSIONERS ORDINANCE O-2020-013

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AMENDING §111.58 OF THE CODE OF ORDINANCES CONCERNING ALCOHOLIC BEVERAGES.

BE IT ORDAINED BY THE CITY OF NEWPORT, KENTUCKY:

SECTION I

That §111.58 of the Code of Ordinances of the City of Newport, Kentucky shall be and hereby is amended to read, as follows:

§111.58 EXTENDED HOURS LICENSE

(A) (1) No person shall operate or maintain a business establishment within the City permitting the sale of any alcoholic beverages between the hours of 1:00 a.m. and 2:30 a.m. without first obtaining an Extended Hours license from the City Alcoholic Beverage Control Administrator who shall be responsible for the issuance of all such licenses. All applications for an Extended Hours license shall be in writing and made directly to the City's Alcoholic Beverage Control Administrator. The City's Alcoholic Beverage Control Administrator shall request a confidential police report and recommendation from the Chief of Police concerning the applicant's eligibility and the written certification of approval from the City's Director of Code Enforcement.

(2) Commencing with the license period for 2020 (December 1, 2019) no new Extended Hours Licenses shall be issued. Those already in existence and subject to renewal shall be permitted to continue. Existing Extended Hours Licenses may be transferred to a new applicant or transferee solely for the same location and if all eligibility requirements are met and approved by the City's Alcoholic Beverage Control Administrator. All other transfers shall be prohibited.

(3) Any establishment licensed to sell alcohol by the drink and located within the Riverfront Development Zone, Shopping Center Zone, or part of a licensed Entertainment Destination Center within the City shall be exempt herefrom.

(B) (1) All applications for an Extended Hours license shall be in writing and made directly to the City's Alcoholic Beverage Control Administrator. The City's Alcoholic Beverage Control Administrator shall request a confidential police report and recommendation from the Chief of Police concerning the applicant's eligibility and the written certification of approval from the City's Director of Code Enforcement.

(2) In order to be eligible for an Extended Hours license, the applicant must have current and valid City and state alcoholic beverage license for the sale of distilled spirits, wine, or malt beverages by the drink, retail or package.

(3) All fees and taxes under §111.55 hereof due to the City must be paid before an applicant shall be considered.

(4) No applicant shall be granted an Extended Hours license who has been convicted of any felony until 5 years have passed from the date of conviction, release from custody or incarceration, parole or termination of probation, whichever is later or of any misdemeanor described under KRS 218A.050 through 218A.130 in the 2 years immediately preceding the application; or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the 2 years immediately preceding the application.

(5) No applicant shall be granted an Extended Hours license unless the person is a resident of or is a corporation licensed to do business within the Commonwealth.

(6) The approval or denial of any Extended Hours license application shall be made by the City's Alcoholic Beverage Control Administrator, in conformance herewith.

(C)(1) All licenses issued herein shall be subject to the following.

(2) No licensee shall sell any alcoholic beverages between the hours of 2:30 a.m. and 6:00 a.m. Monday through Saturday, or from 2:30 a.m. to 11:00 a.m. on Sunday unless the licensee holds a Special Sunday Retail Drink License, permitting sale at 9 a.m.

(D)(1) No live entertainment shall be permitted after 11:00 p.m. on Sunday through Thursday, or after 1:00 a.m. on Friday and Saturday for those establishments located in a residential zone or in a commercial zone that also permits residential uses, unless the requisite permit is obtained from the City Manager pursuant to the provisions of Chapter 100 hereof.

(2) All Extended Hours license holders shall regulate noise levels to assure that noises emanating from the establishment do not disturb the surrounding residents.

3) All Extended Hours license holders shall regulate the conduct of their patrons, to assure that upon their departure from the licensed premises they do not disturb the surrounding residents by engaging in conduct such as urinating in the street, fighting, drinking at the curb or directly outside the licensed premises, breaking bottles on the sidewalk or in the street, littering the immediate area with debris, using excessive profanity or trespassing upon private property in the immediate area.

(4) If the City's Alcoholic Beverage Control Administrator, upon review and a hearing, shall find repeated violations of divisions (D)(1) through (3), hereof, the Administrator may suspend or fail to renew any Extended Hours license so issued.

(E)(1) It shall be the responsibility of the City's Alcoholic Beverage Control Administrator to investigate initial applications, transfers, and renewals of Extended Hours licenses, and to make determinations upon suspensions and/or revocations of the Extended Hours licenses. The City's Alcoholic Beverage Control Administrator shall also make determinations upon verified complaints from citizens or upon complaints received by the Police Department or other enforcement personnel regarding the violation of law by an Extended Hours license holder for the purpose of issuing suspensions and/or revocations of the same.

(2) The City's Alcoholic Beverage Control Administrator shall conduct an annual review before the renewal of any Extended Hours license and if it is found, upon

review, that the Extended Hours license holder has had three or more criminal violations of any nature, resulting in convictions occur at the business establishment and/or within the licensed premises, within the annual period, then, upon a hearing, the City's Alcoholic Beverage Control Administrator shall revoke the Extended Hours license, and no renewal of the same shall be granted.

(3) The decision of the City's Alcoholic Beverage Control Administrator shall be reduced to writing. In the event that the City's Alcoholic Beverage Control Administrator shall deny any initial application for an Extended Hours license or, at the Administrator's discretion, delay the issuance thereof, or shall revoke or suspend any existing Extended Hours license, for cause, or shall fail to renew any existing Extended Hours license, the applicant or holder shall be permitted to appeal the decision of the City's Alcoholic Beverage Control Administrator to the City Manager, in writing, within 10 days of the decision. The City Manager shall have the final determination and shall notify the applicant or holder of his or her decision, in writing, within 10 days thereof. If the City Manager shall approve the appeal, the Administrator shall instruct the City's Alcoholic Beverage Control Administrator to grant the initial application or issue or renew the existing license. In the event of further denial of the initial application or suspension or revocation of the license, the applicant or holder shall be notified of his or her right to further appeal to the Campbell Circuit Court within 30 days thereof.

(F) The time changes brought into effect by the provisions of Daylight Savings Time shall have no effect upon the hours of operation of establishments operating within an extended hours license and such establishments shall be permitted to remain open and operating for the additional hour, lost or gained, as if the same did not exist. Therefore, at 2:00 a.m. on the day when Daylight Savings Time takes effect and the hour advances to 3:00 a.m., those establishments operating within an Extended Hours license shall be permitted to remain open for business until 3:30 a.m. Eastern Daylight Time. They shall, however, be required to close the business immediately thereafter. At 2:00 a.m. on the day when Daylight Savings Time changes back to Eastern Standard Time and the hour reverts to 1:00 a.m., those establishments operating with an extended hours license shall be permitted to remain open for business until 1:30 a.m. Eastern Standard Time. They shall,

however, be required to close the business immediately thereafter. On the day immediately following each, the hours of operation for establishments operating with an extended hours license shall be required to return to the normal operating hours of 1:00 a.m. to 2:30 a.m. Eastern Daylight Time or Eastern Standard Time, whichever is applicable. The purpose of this division is to enable Extended Hours license holders to continue normal business operating hours, in terms of the usual actual time they are open, without regard to the time changes brought about by the conversion to and from Eastern Daylight Time and Eastern Standard Time.

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 July 20, 2020
PASSED: Second reading August 17, 2020

Jerry R. Peluso, Mayor

ATTEST:

Amy B. Able, City Clerk

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