

ORDINANCE NO. 21-22

AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY AMENDING CHAPTER 117 OF THE CITY OF RICHMOND, KENTUCKY CODE OF ORDINANCES RELATING TO THE SALE OF ALCOHOL

WHEREAS, the City Commission of the City of Richmond, Kentucky, by KRS 244.480 has the power to regulate business hours for the sale of alcohol; and

WHEREAS, Ordinance No. A-557, passed 12-13-1965, controlling where alcohol can be served and sold is no longer enforceable; and

WHEREAS, KRS 243.070 authorizes the City of Richmond to set alcohol license fees every 5 years and to increase those fees by 5% until reaching a statutorily capped fee limit; and

WHEREAS, the Board of Commissioners finds it to be in the public interest that existing provisions set forth in Chapter 117 regarding the Business hours for the sale of alcohol be modified in the particulars set forth below, Ordinance No. A-557, passed 12-13-1965, be repealed, and Alcohol License fees be modified as follows;

NOW, THEREFORE, BE IT ORDAINED that:

SECTION I

§117.01 of the Code shall be modified to read in its entirety as follows:

§ 117.01 SALE OF LIQUORS; PERMITTED SECTIONS.

The licensed traffic in alcoholic liquors shall be permitted only within the boundaries of ~~the hereinafter described area of the city, as well as within such additional areas and city precincts as~~ have by vote determined to permit the licensed traffic in alcoholic beverages, at such locations within such areas and precincts as are permissible in accordance with the city's zoning codes, and not elsewhere:

~~—(A) First section. Beginning at the center of the intersection of Main Street and Third Street, thence eastwardly with the center of Main Street to the center of the intersection of Main and Second Streets, thence southwardly with the center of Second Street to the center of the intersection of Second and Water Streets, thence eastwardly with the center of Water Street to the center of the intersection of Water and First Streets, thence northwardly with the center of First Street to a point opposite the north wall of the old McKee Armory Building, thence eastwardly to and with the line of said north wall to the northwest corner of G. H. Thornberry property, thence with the west boundary line of G. H. Thornberry property 170 feet to Water Street, thence the same line to the south side of Water Street, thence with the south side of Water Street in an easterly direction through Madison Avenue to the Northwest corner of the Hamhock Liquor Dispensary property, thence with the west property line of Hamhock Liquor Dispensary in a southerly direction 65 feet, thence easterly with a line parallel to and 50 feet distance from Water Street to the center of Collins Street, thence northwardly with the center of Collins Street to a point 165 feet south of the south right of way line of Main Street, thence at a right angle~~

eastwardly to a point 76 feet east of the east right-of-way line of Collins Street, thence at a right angle northwardly to the center of Main Street, thence westwardly with the center of Main Street to the center of the intersection of Main and Collins Streets, thence northwardly with the center of Collins Street to a point in the center of Irvine Street, thence westwardly with the center of Irvine Street to the center of the intersection of Irvine and Second Streets, thence eastwardly 154.1 feet with the center line of Irvine Street to a point opposite the parking lot situated between the Wells Hardware building and the Maffett Motor Co. building, thence through said parking lot N 28° 00' E 292.85 feet to a point; thence S 63° 24' W 22.85 feet to a point; thence N 26° 18' E 63.00 feet to a point thence N 63° 27' W 66.00 feet to a point, thence S 27° 41' W 355.85 feet and again through said parking lot to the center line of Irvine Street; thence again westwardly with the center line of Irvine Street to the center of the intersection of Irvine and Second Streets.

—(B)— Second section. Beginning at a point in the center of Irvine Street which is 50 feet westwardly from the west right-of-way line of Hill Street, thence eastwardly with the center of Irvine Street to a point opposite the center of Francis Street, thence southeastwardly to the center of Francis Street and with same to a point in the center of E Street, thence northwardly with the center of E Street to a point in the center of the intersection of same with Orange Street, thence eastwardly with the center of Orange Street to the east end of said street and same course continued to the center of the southbound main track of the L & N Railroad Company and thence northwardly with same to a point opposite the east end of Elm Street, thence westwardly to the center line of Elm Street and same course continued to a point 50 feet west of the west right-of-way line of Hill Street, and thence southwardly with a line parallel to and 50 feet distant from the west right-of-way line thereof to the beginning.

—(C)— Third section. Beginning in the center of the North Main Tract of the L & N Railroad Company at a point which is 75 feet southwardly from a point opposite the center of Heath Street, thence eastwardly with the line parallel to and 75 feet south of the center line of Heath Street to the center of Big Hill Avenue, thence continuing south with the center of Big Hill Avenue to the city limits line, thence with said city limits line (same being the arc of a circle with a radius of one mile from the courthouse) northeastwardly to a point in the south line of East Main Street, thence eastwardly with said south line of said street a distance of approximately 52 feet to a point opposite the east property line of Lot No. 7 in Block 5 of Richmond Investment Company's addition to said city, thence a straight line northwardly a distance of approximately 60 feet to the north right-of-way line of East Main Street at the point where the east line of said lot intersects the same and thence same course continued with said east line of said lot a distance of 180 feet to the northeast corner of said lot; thence westwardly with the north or back line of lots numbered 7, 5, 3 and 1 in Block 5, and crossing Holly Street and thence with the north or back line of lots numbered 15, 13, 11, 9, 7, 5, 3 and 1, of the Richmond Investment Company's addition to said city, this being a line, parallel to and 180 feet distant from the north right-of-way line of East Main Street, to the east right-of-way of Pine Street; thence southwardly with the said east right-of-way of Pine Street to its intersection with the north right-of-way line of East Main Street; thence westwardly with said line of said street to a point 100 feet east of the intersection of same with the east right-of-way line of North Estill Avenue, thence northwardly with a line parallel to Estill Avenue and 100 feet distance from the east line of same a distance of 100 feet, thence at a right angle westwardly to the center of North Estill Avenue, thence northwardly with the center of Estill Avenue to the center of the intersection of Estill Avenue and Irvine Street, thence westwardly with the center of Irvine Street to a point opposite the center line of K Street, thence northwardly and with the center line of K Street and same course continued to the south

~~line of Four Mile Avenue, thence eastwardly with said line of Four Mile Avenue to a point in the southeast intersection of Four Mile Avenue and Estill Avenue, thence southwardly with the east line of Estill Avenue and the property line of Virginia Eversole a distance of 50 feet, thence eastwardly with Eversole's line a distance of 150 feet, thence northwardly with Eversole's line a distance of 50 feet to the south line of Four Mile; thence with said south line of Four Mile Avenue to the center line of K Street, thence northwardly to a point 50 feet of the north right-of-way line of Four Mile Avenue; thence westwardly with a line parallel to Four Mile Avenue and 50 feet north of the north right-of-way line thereof to a point in the center of the Northbound main track of the L & N Railroad Company and thence with the same southwardly to the beginning.~~

SECTION II

§117.17 of the Code shall be modified to read in its entirety as follows:

§ 117.17 LICENSES REQUIRED; APPLICATION; REGULATIONS.

(A) License required.

(1) No person shall sell, deal or traffic in any of the following without having procured a license as provided by ordinance, or without complying with all statutes, ordinances and regulations applicable hereto.

- (a) Retail dealer of malt beverages, whether by the package or by the drink;
- (b) Distributor of malt beverages;
- (c) Rectifier or blender of distilled spirits or vine;
- (d) Wholesaler of distilled spirits, malt beverages or wines; with premises in the city;
- (e) Retailer of wine or distilled spirits, whether by the package or by the drink;
- (f) Activities for which special temporary licenses are authorized;
- (g) Operation of a private club, as defined in state law which traffics in malt beverages, distilled spirits and wine for consumption on the premises.

(2) Any person violating any of the provisions of division (A) shall be deemed guilty of a Class B misdemeanor. Each sale, each dealing or each trafficking without the required license shall constitute a separate offense.

(B) Application for license. Applications for the issuance of new licenses shall be in writing and only upon forms provided by the Department of Alcoholic Beverage Control, Commonwealth of Kentucky. The applicant for a new license shall have caused to be published in a newspaper of general circulation in the city at least once before such application is filed a concise advertisement stating the name and address of the applicant, the name and address of the business, the type of license applied for, and the date by which the application will be made.

(C) Sworn information to be contained in application. Application for a license to sell, deal or traffic in alcoholic beverages shall be made in writing, properly subscribed and sworn to before a notary public or other officer authorized to administer an oath.

(D) Local administrator to approve application first. Before being eligible to apply for a state license an applicant's city license for manufacturing, sale or transportation of alcoholic beverages must have been approved by the City Administrator.

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

(F) Issuance of city licenses. Upon the approval of the application, the applicant shall pay the amount of the license fee provided in this subchapter, within the time prescribed in this subchapter to the Finance Department who shall issue the license.

(G) Persons who may not be licensed.

(1) A natural person shall not become a licensee under the provisions of this chapter if he or she:

(a) Has been convicted of any felony until five years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;

(b) Has been convicted of any misdemeanor described under KRS 218A.050 through KRS 218A.130, inclusive, in the two years immediately preceding the application;

(c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two years immediately preceding the application;

(d) Is under the age of 21 years;

(e) Has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction; or

(f) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one year before the date on which his or her application for a license is made.

(2) A partnership, limited partnership, limited liability company, corporation, or other business entity shall not be licensed if:

(a) Each of the members, directors, principal officers, and managers does not qualify under division (G)(1)(a) through (d) of this section;

(b) It has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction; or

(c) Any of the members, directors, managers, or principal officers has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute,

until the expiration of the later of two years from the date of the revocation or two years from the date of conviction.

(H) Expiration date; renewal of licenses. All licenses, except special temporary licenses and state multiple license holders issued under this subchapter shall expire on April 30th of each year and the fees thereof shall be due and payable on or before May 1st of each year. State multiple license holders shall be known as "batch" licensees. All batch licenses shall expire on August 31st of each year and the fees thereof shall be due and payable on or before September 1 of each year.

(I) Special temporary license. The City Alcoholic Beverage Administrator may, in his or her sound discretion, approve a special temporary retail drink license to any person who is qualified for such a license in accordance with the provisions of KRS 243.260. The fee for such license shall be \$108.33 for each month or part of month for which the temporary license is issued.

(J) Special private club license. A special private club license may be issued to any non-profit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail drink license shall apply to a special private club license.

(K) Transfer of assignment of license without authorization prohibited. No license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall be transferable or assignable to any other person or to any other premises, unless a transfer or assignment is authorized by the State Administrator in the exercise of his or her sound discretion under KRS 243.640 to 243.650. If this is so approved, a payment of \$50 shall be made to the Finance Director.

(L) Transfer of license to other premises. In case of destruction by an act of God, or casualty for which the licensee was not responsible, of premises for which a license under KRS 243.020 to 243.670 has been issued, the State Administrator who issued the license may, if in his or her discretion such action is necessary to attain justice change the license to authorize continuance of business at other premises. No such transfer shall be made unless the licensee had filed a written verified statement of the reasons for the necessity of transfer. If the transfer is made, the State Administrator shall endorse a description of the new premises upon the license and shall date and sign the endorsement.

(M) Posting of license.

(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. Licenses shall be enclosed in a wood or metal frame enclosing a clear glass space so that the whole license may be seen.

(2) No licensee shall post the license or permit it to be posted, upon premises other than the licensee's premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(N) Lost or destroyed licenses. When the license shall be lost or destroyed without fault on the part of the holder of the license or his or her agent or employee, a duplicate in lieu of the

original license shall be issued by Finance Director after the Finance Director is satisfied as to the facts; however, the person applying for the duplicate license shall pay a fee of \$10 for issuing the duplicate.

(O) Sales only at place specified in license. No license issued pursuant to this subchapter shall authorize the sale of alcoholic beverages of any kind at more than one place, which shall be specified in the license, and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold.

(P) Distilled spirits, malt beverage, and wine licenses; kinds; fees. The following kinds of distilled spirits, malt beverages, and wine licenses may be issued, the fees for which shall be:

Distiller's license, per annum \$500.00

Rectifier's license, per annum \$3,000.00

Wholesaler's distilled spirits and wine license, per annum \$3,000.00

Quota retail package license, per annum ~~\$682.50~~ \$716.62

Quota retail drink license, per annum ~~\$682.50~~ \$716.62

Special temporary license, per event \$166.66

Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$2,000.00

Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$1,000.00

Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$300.00

Distilled spirits and wine special temporary auction license, per event \$200.00

Special Sunday retail drink license, per annum \$300.00

Caterer's license, per annum \$800.00

Bottling house or bottling house storage license, per annum \$1,000.00

Malt beverage licenses as follows:

Brewer's license, per annum \$500.00

Microbrewery license, per annum \$500.00

Malt beverage distributor's license, per annum \$400.00

Nonquota retail malt beverage package license issued to holder of nonquota type 4 retail malt beverage drink license, per annum \$50.00

All other nonquota retail malt beverage package license, per annum \$200.00

Nonquota type 4 retail malt beverage drink license issued to holder of nonquota retail malt beverage package license \$50.00

All other nonquota type 4 retail malt beverage drink license, per annum \$200.00

Malt beverage brew-on-premises license, per annum \$100.00

Limited restaurant license (includes distilled spirits, wine, and malt beverages), per annum \$1,200.00

Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum \$1,200.00

Supplemental bar license (per each supplemental bar issued to same licensee at the same premises, no charge after first five), per annum ~~\$682.50~~ \$716.62

(Q) Payment of license fee. The license fee for every license issued under this subchapter shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license under this subchapter. A violation of this section shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.

(R) Partial license fees; forfeiture; proportional payments in law.

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

(2) The proportionate part of the license fee prescribed shall be paid in advance at the time the application therefore shall be made and the license issued as herein provided for. If any license is revoked or cancelled for any reason by the City Alcoholic Beverage Administrator, the licensee shall forfeit any and all claims which he or she might otherwise have had to any portion of the license fee paid by him or her upon the issuing of the license.

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

(S) Revocation and/or suspension of licenses. Licenses issued under this subchapter may be revoked or suspended as spelled out in § 117.99.

(T) Disposition. All money derived from the collection of license fees or the forfeiture of bonds, pursuant to this subchapter, shall be paid into and become part of the general fund of the city government.

SECTION III

§117.18 of the Code shall be modified to read in its entirety as follows:

§ 117.18 OPERATION OF LICENSED ESTABLISHMENTS.

(A) Prohibited retail sales.

(1) No retail licensee shall sell, give away or deliver any alcoholic beverages or procure or permit any alcoholic beverages to be sold, given away or deliver to:

- (a) Any person under the age of 21; or
- (b) Any person actually or apparently under the influence of alcoholic beverages; or
- (c) A habitual drunkard or any person convicted of drunkenness as many as three times within the most recent 12 month period; or

(d) Any person known to the seller to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of any felony.

(2) Under subdivision (A)(1)(a), it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchasers appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages, such evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) Persons under the age of 21 not to possess or purchase liquor nor to misrepresent age or use fraudulent identification nor to loiter in barrooms; exceptions.

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

LOAF. To spend time in idleness; as to loaf time away.

LOITER. To be slow in moving, delay, linger, saunter, tarry, lag behind; to wander as an idle vagrant; and to waste time.

PREMISES. 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 is situated.

RESTAURANT. An establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and other food items shall not render any licensed premises a "restaurant" within the meaning of this regulation.

(2) Prohibitions.

(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 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 beverage to such person.

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

(e) No person under the age of 21 years shall possess in the city any alcoholic beverage outside of the confines of his or her abode or any residence. Any alcoholic beverages found in possession of such person shall be seized as contraband.

(f) No person under the age of 21 years shall loaf or loiter in or about the barroom of any licensed premises where alcoholic beverages are sold by the drink.

(g) Any person under the age of 21 years remaining in any barroom of any premises licensed to sell alcoholic beverages for the purpose of listening to a radio or for the purpose of listening to and observing a television set, will be considered as loafing and loitering within the meaning of this regulation. The listening to any radio program or the observance and listening to any television program by minors in any premises licensed to sell alcoholic beverages by the drink shall not permit the establishment to be considered as a place where a public exhibition,

sport or athletic event is being conducted. Any minor, or minors, entering or remaining in any licensed premises having a bar at which alcoholic beverages are sold by the drink for the purpose of playing pool, and the like, will be considered as loitering or loafing within the meaning of this regulation.

(h) All bowling alleys licensed for the sale of alcoholic beverages shall have the bar enclosed from the bowling area, except that this shall not apply to any premises licensed prior to November 1, 1968.

(3) Exceptions.

(a) Limited. Exceptions are limited to those created by KRS 244.085, KRS 244.087, and KRS 244.090, if applicable.

(b) Persons under 21. Persons under the age of 21 years may patronize licensed establishments such as restaurants, grocery stores, drug stores, hotels, private clubs, parks, fairs or public exhibitions where sports or athletic events are scheduled. Bowling is considered an athletic event. During junior league bowling, the sale of alcoholic beverages on licensed premises is prohibited.

(c) Retail premises to furnish clear view from sidewalk or entrance; hotel or club may serve in separate room. The entrance doors of any premises for which a retail license has been issued shall be of clear glass. The premises shall be so erected and maintained as to furnish a clear view of the entire premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions or panels that are not higher than 48 inches from the floor shall not be construed as obstructing the view or the general observation of persons. Any license to any bona fide hotel or club shall entitle the licensee to serve such alcoholic beverages as it is licensed to sell in a separate room at banquets or where meals are served.

(d) Retail premises not to be disorderly.

1. No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

2. Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

- a. Engaging 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; or
- e. Creating a public nuisance; or
- f. Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
- g. Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

(e) Security and lighting. The licensee shall be responsible for maintaining security on his premises including providing adequate lighting to illuminate the sidewalk and all adjacent parking areas 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) Business hours.

~~1. Premises for which a license has been granted to sell distilled spirits and wine and/or malt beverages may remain open for business daily from 6:00 a.m. until 1:00 a.m. prevailing time.~~

~~2. No premises for which there has been granted a license for the sale of alcoholic beverages shall be permitted to remain open for any purpose between 1:00 a.m. and 6:00 a.m. on Mondays through Sundays, or at any time during the 24 hour period starting on Sunday 6:00 a.m. to 6:00 a.m. Monday unless said premises have been granted the specific licenses described in division (B)(3)(f)3., below. Provided however, any licensed premises not holding the specific types of licenses described in division (B)(3)(f)3., below, may nevertheless remain open if such premises contain a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits, wine, and malt beverages and such department is kept locked during the times mentioned above.~~

~~3. Exceptions. (i) Premises licensed as a restaurant and holding both an NQ 2 Retail Drink License and a special Sunday retail drink license, or an NQ 4 Malt Beverage Drink License may remain open for business on Sundays and may, from 1:00 p.m. 11:00am Sunday until 1:00 a.m. Monday, engage in the sale of alcoholic beverages for consumption on the premises, provided that 50% or more of the license holder's gross annual business income is derived from the sale of food served at the licensed premises; (ii) Hotels and motels with restaurants holding an NQ 2 Retail Drink License and a special Sunday retail drink license, or an NQ 4 Retail Malt Beverage Drink License may remain open for business on Sundays and may, from 1:00 p.m. Sunday until 1:00 a.m. Monday, engage in the sale of alcoholic beverages in their restaurants for consumption on the premises, provided that 50% or more of the hotel's or motel's gross annual restaurant business income is derived from the sale of food served at the hotel's or motel's restaurant; (iii) Premises for which both an NQ 3 Retail Drink License and a special sale Sunday retail drink license, if required under state law or local ordinance, have been granted for the sale of distilled spirits and wine may remain open for business on Sundays and may, from 1:00 p.m. Sunday until 1:00 a.m. Monday, engage in the sale of alcoholic beverages for consumption on the premises; (iv) Premises for which both a limited golf course license, or a distiller's license (any type), or a Winery License (any type), or a brewer's license, or a microbrewery license and a special sale Sunday retail drink license, if required under state law or local ordinance, have been granted may remain open for business on Sundays and may, from 1:00 p.m. Sunday until 1:00 a.m. Monday, engage in the sale of alcoholic beverages for consumption on the premises.~~

~~4. All trafficking in alcoholic beverages on Christmas Day in the city is hereby prohibited.~~

(1) Distilled spirits and wine by the drink. Unless otherwise provided herein, the selling, giving away, or delivering of distilled spirits or wine by the drink shall not be permitted during the following hours:

(a) Between the hours of 1:00 a.m. and 11:00 a.m. on a Sunday;

- (b) Between the hours of 1:00 a.m. and 6:00 a.m. on a Monday; and
(c) Between the hours of 1:00 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
(2) Malt beverages. Unless otherwise provided herein, the selling, giving away, or delivering of malt beverages shall not be permitted during the following hours:
(a) Between the hours of 1:00 a.m. and 11:00 a.m. on a Sunday;
(b) Between the hours of 1:00 a.m. and 6:00 a.m. on a Monday; and
(c) Between the hours of 1:00 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
(3) Retail package distilled spirits and wine. The selling, giving away, or delivering of packaged distilled spirits or wine shall not be permitted during the following hours:
(a) Between the hours of 1:00 a.m. and 1:00 p.m. on a Sunday;
(b) Between the hours of 9:00 p.m. on a Sunday and 6:00 a.m. on a Monday, except when Christmas Eve and New Year's Eve fall on a Sunday, then between the hours of 1:00 a.m. and 6:00 a.m. on that Sunday; and
(c) Between the hours of 1:00 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
(4) A premises must obtain the appropriate type(s) of license(s) prior to being able to lawfully sell, give away, or deliver alcohol of any kind pursuant to the relevant licensing provisions of this chapter.
(5) If a licensee provides a separate locked department within its licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the applicable times mentioned above, it shall be deemed to have complied with this section.
(6) The term "locked department" shall include all display windows, show cases, shelves, and counters. In no event shall the shelves and counters be left open, but shall have a door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.
A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.
(7) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during the hours specified above. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

(g) Delivery hours of malt beverages.

~~1. It shall be unlawful for any distributor, wholesaler, or manufacturer of malt beverages or for any agent or employee thereof, to make such deliveries of malt beverage to any dispenser or customer in the corporate limits between the hours of 12:00 a.m. on Saturday and 6:00 a.m. on the succeeding Monday. The word DELIVERIES as used herein shall include the transfer of actual possession of malt beverage whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler, or manufacturer, or by any agent, or employee thereof.~~

~~2. It shall be unlawful for any person or for any dispenser or dealer, whether for private use, or for the purpose of sale, to receive from any distributor or wholesaler or manufacturer of malt beverages between the hours of 12:00 a.m. and 6:00 a.m. on the succeeding Monday.~~

(h) Control of beverages on the licensed premises.

1. Premises of retail package licensees. No bottle of distilled spirits or wine shall be opened or consumed on the licensed premises by any person.

2. Premises of malt beverage licensees and retail drink licensees. No distilled spirits, vine or malt beverages shall be taken from the licensed premises in an open container.

(i) Duty to display warning. 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 eleven inches in size which shall show, in 30 point or large type substantially as follows:

“WARNING TO MINORS

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

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

(j) Prizes and premiums. It shall be unlawful for any licensee under this subchapter who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize or for any other purpose in connection with the sale of alcoholic beverages.

(k) Gambling; games of chance. No gambling or games of chance shall be permitted in any form upon such licensed premises. Dice, slot machines, or any device of chance are prohibited and shall not be kept on such premises.

(l) Controlled substances. It shall be unlawful for any licensee under this subchapter to sell, to smoke or keep or permit to be sold, smoked or kept upon the licensed premises any marijuana. It shall be unlawful for any licensee, except licensed drug stores, to keep or sell or permit to be sold or used on the licensed premises any narcotic or barbiturate drugs. In addition to other penalties set out in this subchapter for the violation of this section, the City Administrator shall also have the authority to revoke the license issued to said premises.

(m) Radio receiving apparatus. It shall be unlawful for any licensee licensed under this subchapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from the police radio station as it is now or may hereafter be operated. In addition to other penalties set out in this subchapter for the violation of this section, the radio receiving apparatus shall be confiscated.

(n) Warning systems. It shall be unlawful for any license under this subchapter to have or maintain any sound, light or other warning system on such premises which is intentionally adjusted or constructed or which is utilized in such a fashion as to indicate to employees or patrons of the establishment that law enforcement officials are on the premises. This section includes announcements made over the public address systems.

(o) Permitting possession and consumption of alcoholic beverages on premises.

1. No person being the owner or occupant or otherwise in possession of any property located within the city knowingly shall allow any person under the age of 21 years to remain on

such property while in the possession of intoxicating liquor or beer or while consuming intoxicating liquor or beer.

2. It shall be an affirmative defense under this section if the person charged with the offense, enlisted the aid of and cooperated with law enforcement personnel to cause minors who are utilizing intoxicating liquor or beer in violation of this section to not remain on his property.

(C) Retail premises to furnish clear and unobstructed view from sidewalk, or from the entrance in the case of premises not on street level; restricted access to outdoor areas where alcoholic beverages are served to or consumed by customers or patrons. The entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. If the premises are located at street level, the view of the entrance from the sidewalk must be unobstructed, or if the premises are not located at street level, the view from the entrance must be unobstructed. No partition, box, stall, screen, fence, curtain or any other device shall obstruct the view of the entrance or the general observation of persons, nor prohibit ready access to and from the entrance. Any outside areas where alcoholic beverages are served to or consumed by customers or patrons of the licensed premises and outside seating areas of the licensed premises shall be in an area fully under the exclusive control and possession of the licensee and shall be enclosed by such a permanent structure as may be permitted under the ordinances of the City. No such outside areas shall be readily accessible except by means under the exclusive control of the licensee.

SECTION IV

This Ordinance shall become effective immediately upon its enactment following second reading, and publication in accord with the requirements of applicable law.

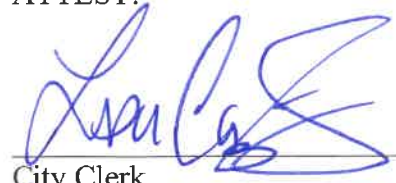
DATE OF FIRST READING:	August 24, 2021
MOTION BY:	Commissioner Newby
SECONDED BY:	Commissioner Brewer

DATE OF SECOND READING:	September 14, 2021
MOTION BY:	Commissioner McDaniel
SECONDED BY:	Commissioner Newby

VOTE	YES	NO
Commissioner Arnold		x
Commissioner Brewer	x	
Commissioner McDaniel	x	
Commissioner Newby	x	
Mayor Blythe		x


Mayor Blythe

ATTEST:



City Clerk

Approved as to form:



City Attorney