

ORDINANCE NO. **BG2013 - 42**
(As Amended)
ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 4
(ALCOHOLIC BEVERAGE CONTROL) OF THE
CITY OF BOWLING GREEN CODE OF
ORDINANCES TO MAKE AMENDMENTS
REQUIRED BY REVISIONS TO THE KENTUCKY
REVISED STATUTES

WHEREAS, the Kentucky General Assembly adopted significant changes to the Kentucky Revised Statutes (KRS) related to alcoholic beverage control during its 2013 session; and,

WHEREAS, these revisions require amendments to the City's Code of Ordinances; and,

WHEREAS, the Board of Commissioners also determined that it was in the best interests of the City to make additional amendments to the City's alcoholic beverage control ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 4 (Alcoholic Beverage Control) is hereby amended as follows:

4-1 GENERAL PROVISIONS.

The provisions of the State Alcoholic Beverage Control Act laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243 and 244 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein; as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control laws of the City, except as otherwise lawfully provided herein. The provisions contained herein shall not be construed to prohibit the continuation of alcoholic beverage licenses existing under the immediately preceding alcoholic beverage control ordinance of the City, but shall apply to all renewals thereof.

4-2 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

4-2.01 Office of Administrator held by Chief of Police.

The Chief of Police, or his investigators, shall perform the duties of the City Alcoholic

(Ordinance No. BG2013 - 42)

Beverage Control Administrator imposed by State statutes and City ordinances as well as other such duties as may be assigned by the Board of Commissioners. ~~See KRS 241.190 for functions of the City Administrator.~~

4-2.02 Investigators, Inspection of Premises.

The City Administrator and his investigators shall have the full police powers of peace officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with any City of Bowling Green law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

4-2.03 Inspection of Licensee's Records.

The City Administrator, his investigators and City of Bowling Green law enforcement officers shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees pursuant to State law and City ordinances, including audio and visual recordings, ~~under KRS 244.150~~ and the City Administrator shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

4-2.04 Authority to Revoke or Suspend Licenses.

The City Administrator shall have the same powers and duties with respect to suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to State licenses ~~under KRS 241.060~~. The City Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Chapter.

~~4-3 — LIMITATION ON NUMBER OF LICENSES; DISTANCE REQUIREMENTS.~~

~~4-3.01 — Retail Package, Drink, Beer and Wholesale Distributors.~~

(Ordinance No. BG2013 - 42)

~~The number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors licenses issued in the City of Bowling Green shall not exceed the number and type as set forth in KRS Chapters 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.~~

~~4-3.02—Distance Requirements.~~

~~A retail package liquor license shall not be granted or issued to any licensee who proposes to sell retail package liquor at a location within one thousand (1,000) feet of a location of any similar establishment in the City of Bowling Green. This distance shall be measured according to the provisions of KRS 241.075(3). This Section shall not prohibit the renewal or reissuance to the same premises of existing licenses which may be closer in proximity than the distance herein prohibited.~~

4-43 APPLICATION, ISSUANCE, FORM, DORMANT LICENSES.

4-43.01 Regulations Pursuant to Alcoholic Beverage Control Act Law.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport the same in the City unless he shall first procure and have issued to him a license under the provisions of this Chapter and all State statutes of Kentucky and regulations adopted pursuant thereto, which Chapter article, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Act Law.

4-43.02 Submittal of Application.

An applicant shall submit to the City Alcoholic Beverage Control Administrator an exact duplicate of his state license application form containing the information required by State law KRS 243.380 and 243.390, and, as part of his application, shall sign and submit a consent providing that the City Administrator may inspect and search the licensed premises at any reasonable time, may confiscate articles found on the premises in violation of any ordinance or statute, and may order an emergency temporary closure of the premises if the public health, safety, morals and welfare is

(Ordinance No. BG2013 - 42)

threatened by multiple violations of any ordinance or statute involving disturbance of the peace or public disorder reported to the City Administrator by his investigators or law enforcement officers ~~the Chief of Police~~ during the course of one day's operation of the premises. The temporary closure shall remain in effect until review of the alleged violations by the City Administrator within thirty-six (36) hours.

4-43.03 Approval or Denial of Application.

If upon review of the application, the City Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this Chapter, that the location is one that can be approved so that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, the Board of Commissioners and City Administrator, and that there are no other causes for denial of the license, the City Administrator shall approve the application.

4-43.04 Payment of Fees.

Upon approval of the application by the City Administrator, the applicant shall pay the amount of the license fee provided in this Chapter in the form of a certified check, money order, ~~or cash or credit card~~. Payment shall be held in deposit by the Finance Department ~~Treasury Division~~ pending state license approval and issuance of the City license by the City Administrator.

4-43.05 Posting of Licenses; Public Record.

Each City license in the same form prescribed by KRS 243.440 for State licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each City license shall remain in the Finance Department ~~City Administrator's office~~ as part of the public record.

4-43.06 License to Become Void if Business Dormant; License Renewal.

- a. Conditions for dormancy. Because under the provisions of the Kentucky Revised

(Ordinance No. BG2013 - 42)

Statutes KRS, all administrative regulations promulgated pursuant thereto and this Chapter, as may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the City, 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. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included herein.

b. Surrender of license and exceptions. 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, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, ~~pursuant to 804 KAR 4:110, as amended from time to time,~~ to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State Administrator to the licensee, said licensee shall immediately notify the City Administrator of same. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City Administrator of same and a fee shall be due and payable to the City of Bowling Green ~~Administrator~~ for the period such license was in dormancy in the same amount as set forth herein had the license remained active for the same period.

c. Applications based on pending construction or development. Applications approved by the City Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Extensions may be granted by the City Administrator as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

d. Renewals, time for filing. All renewal of licenses with payment therefor must be on

(Ordinance No. BG2013 - 42)

file with the City Administrator fifteen (15) days before the expiration of the licenses for the preceding license period, or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to expiration date of the license, setting forth the facts justifying an extension, and the City Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his sound discretion. The above licensee shall pay the license fee from the expiration date of the former license or licenses. Said payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

4-54 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE.

4-54.01 State Law References.

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 as set out in the Kentucky Revised Statutes 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.

4-54.02 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. The City Administrator may, in his discretion, approve a license to sell after receiving documentation that the applicant for the license has paid or has made satisfactory arrangements for taking care of the

(Ordinance No. BG2013 - 42)

indebtedness represented by the unpaid and delinquent taxes or fees. This Section shall apply only to taxes and fees which are due and payable by the licensee.

4-54.03 Restrictions on Package Liquor License.

a. No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ~~eighty (80)~~ ninety (90) percent of the total projected gross receipts from sale made at the licensed premises during the twelve (12) month period following the issuance of the license shall consist of the projected gross receipts from sales of alcoholic beverages; and, no such license shall be renewed for any premises unless ~~eighty (80)~~ ninety (90) percent of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.

b. A retail package liquor license shall not be granted or issued to any licensee who proposes to sell retail package liquor at a location within one thousand (1,000) feet of a location of any similar establishment in the City of Bowling Green. This distance shall be measured according to the provisions of KRS 241.075(3). This Section shall not prohibit the renewal or reissuance to the same premises of existing licenses which may be closer in proximity than the distance herein prohibited.

4-54.04 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 243.550.

4-65 CLASSES OF LICENSES AND FEES.

4-65.01 License Fees Charged for Each Location.

The City may issue those ~~distilled spirits, wine, and malt beverage~~ licenses at the specified fees which are listed below; ~~authorized by Kentucky Revised Statutes, Kentucky Administrative Regulation, City Ordinance, and/or otherwise are allowed under state law,~~ the fees for which may not exceed ~~two times the state license fees enumerated by statute and/or Kentucky administrative~~

(Ordinance No. BG2013 - 42)

regulations:

(1) Distiller's license, per annum five hundred (\$500.00) dollars;

(2) Rectifier's license, per annum three thousand (\$3,000.00) dollars;

(3) Wholesaler's Distiller's Spirit and Wine license, per annum three thousand (\$3,000.00) dollars;

(4) Quota Retail Package license, per annum one thousand (\$1,000.00) dollars;

(5) Quota Retail Drink license, per annum one thousand (\$1,000.00) dollars;

(6) Special Temporary license, per event:

(a) twenty-five (\$25.00) dollars for beer only;

(b) fifty (\$50.00) dollars for wine only; and,

(c) fifty (\$50.00) dollars for distilled spirits;

(7) Nonquota Type 1 Retail Drink license, per annum two thousand (\$2,000.00) dollars;

(8) Nonquota Type 2 Retail Drink license, per annum one thousand (\$1,000.00) dollars;

(9) Nonquota Type 3 Retail Drink license, per annum three hundred (\$300.00) dollars;

(10) Distilled Spirits and Wine Special Temporary Auction license, per event two hundred (\$200.00) dollars;

(11) Special Sunday Retail Drink license, per annum three hundred (\$300.00) dollars;

(12) Extended Hours Supplemental license, per annum two thousand (\$2,000.00) dollars;

(Ordinance No. BG2013 - 42)

(13) Caterer's license, per annum eight hundred (\$800.00) dollars;

(14) Bottling House or Bottling House Storage license, per annum one thousand (\$1,000.00) dollars;

(15) Limited Golf Course license, per annum one thousand two hundred (\$1,200.00) dollars;

(16) Supplemental Bar license, per annum for the first five (5) Supplemental Bar licenses shall be the same as the fee for the primary drink license obtained with no charge for each Supplemental Bar license issued in excess of five (5) to the same licensee at the same premises;

(17) Brewer's license, per annum five hundred (\$500.00) dollars;

(18) Microbrewery license, per annum five hundred (\$500.00) dollars;

(19) Malt Beverage Distributor's license, per annum four hundred (\$400.00) dollars;

(20) Nonquota Retail Malt Beverage Package license, per annum two hundred (\$200.00) dollars;

(21) Nonquota Type 4 Retail Malt Beverage Drink license, per annum two hundred (\$200.00) dollars;

(22) Malt Beverage Brew-on-Premises license, per annum one hundred (\$100.00) dollar;

(23) Nonquota Type 4 Retail Malt Beverage Drink license, per annum for a licensee also holding a Nonquota Retail Malt Beverage Package license fifty (\$50.00) dollars; and,

(24) Nonquota Retail Malt Beverage Package license, per annum for a licensee also holding a Nonquota Type 4 Retail Malt Beverage Drink license fifty (\$50.00) dollars.

4-65.02 More Than one Classification on Any Location.

License fees in the amounts herein provided shall be charged for each location in which

(Ordinance No. BG2013 - 42)

any person engages in any classification of business authorized pursuant to State law and this Chapter ~~under this article~~, and if more than one classification of business is conducted at any location, a license fee shall be charged for each of the privileges exercised.

4-~~65~~.03 Duration.

Applications for renewals of licenses required by this Chapter shall be made for each fiscal year beginning the first day of July and extending through the last day of June of the succeeding year. ~~;~~ Applications for renewal are to be filed with the City Alcoholic Beverage Control Administrator fifteen (15) days prior to expiration.

4-~~65~~.04 Pro-ration; No Refund.

Pro-ration of fees shall be as provided for State licenses as set out in the Kentucky Revised Statutes ~~in KRS 243.090~~. In the event any licensee shall cease doing business for any reasons, no refund of the City license fee shall be granted to him.

4-~~65~~.05 Assignability, Transferability.

Assignability/transferability; and/or pledging/hypothecation of City licenses shall be the same as provided for State licenses in the Kentucky Revised Statutes ~~KRS 243.630, 243.650 and 243.660~~.

4-~~65~~.06 Location of Business Restricted.

Licenses under this Chapter shall not authorize the conducting of business in any other place than that specifically described in the original State application and license. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require application for and purchase of a City Supplemental Bar license in like manner as required by the State Alcoholic Beverage Control Board.

4-~~65~~.07 Disposition of Fees, Fines.

All monies derived from license fees or from fines as herein provided; shall be paid to the

(Ordinance No. BG2013 - 42)

treasury of the City of Bowling Green and become a part of the general funds of the City.

4-76 HOURS OF SALE.

4-76.01 Quota Retail Package Sales ~~Retail Sale of Distilled Spirits and Wine by the Package.~~

Premises for which there has been granted a Quota Retail Package license ~~for the sale at retail of distilled spirits and wine by the package~~ shall be permitted to remain open during the hours of 8:00 a.m. to 11:00 p.m. on each day ~~from Monday through Saturday and during the hours of 1:00 p.m. to 9:00 p.m. on Sunday~~, but shall remain closed during the twenty four (24) hours of a Sunday and at any time when the polls are open for any primary or regular election in the precinct in which the licensee's business is located.

4-76.02 Retail Sale of Distilled Spirits and Wine by the Drink for Consumption on Licensed Premises.

Premises for which there has been granted a Quota Retail Drink license, a Nonquota Type 1 Retail Drink license, a Nonquota Type 2 Retail Drink license, a Nonquota Type 3 Retail Drink license or a Limited Golf Course license, and not holding a Special Sunday Retail Drink license ~~for the retail sales of distilled spirits and wine by the drink for consumption on the licensed premises~~, shall be permitted to serve alcoholic beverages ~~remain open~~ Monday through Saturday between the hours of 6:00 a.m. and 2:00 a.m. of the following weekday but shall not serve alcoholic beverages ~~be closed~~ during the remaining twenty-two (22) hours of each Sunday ~~and at any time when the polls are open for any primary or regular election in the precinct in which the license is granted~~.

4-76.03 Retail Sale of Malted Beverages.

a. ___ Premises for which there has been granted a Nonquota Retail Malt Beverage Package license for the retail sales of package malt beverages shall be permitted to sell package malt beverages ~~each day remain open~~ between the hours of 6:00 a.m. and 2:00 a.m. of the following weekday, but

(Ordinance No. BG2013 - 42)

~~shall be closed during the remaining twenty-two (22) hours on Sunday and at any time when the polls are open for a general or primary election in the precinct in which the license is granted.~~

b. Premises for which there has been granted a Nonquota Type 4 Retail Malt Beverage Drink license shall be permitted to serve malt beverages Monday through Saturday between the hours of 6:00 a.m. and 2:00 a.m. of the following weekday and on Sunday from 10:00 a.m. until 2:00 a.m. on the following Monday.

4-76.04 Retail Sale of Distilled Spirits and Wine by the Drink for Consumption on Licensed Premises ~~Retail Sale of Alcoholic Beverages on Sunday.~~

Licensees Hotels, motels, and restaurants which have been issued a Quota Retail Drink license, a Nonquota Type 1 Retail Drink license, a Nonquota Type 2 Retail Drink license, a Nonquota Type 3 Retail Drink license or a Limited Golf Course license ~~are licensed for the retail sale of distilled spirits and wine by the drink under Section 4-7.02 and/or malt beverages under Section 4-7.03 and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food may apply for a Special Sunday sale Retail Drink license. Any premise granted a Special Sunday sale Retail Drink license under this Section shall be permitted to sell alcoholic beverages by the drink for consumption on the licensed premises on Sunday from 1:00~~ 10:00 ~~a.p.m. until 2:00 a.m. of the following Monday.~~

4-76.05 Other Retail Sales on Licenseds Premises.

Premises licensed under Sections 4-76.02 and/or 4-76.03, whose primary business is not the sale of alcoholic beverages, 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 a locked or closed off compartment.

(Ordinance No. BG2013 - 42)

4-76.06 Control of Licensed Premises During Closing Hours.

Premises licensed under Sections ~~4-76.01~~, ~~4-76.02~~ and/or ~~4-76.03~~ whose primary business is the sale of alcoholic beverages by the drink or package must be, during the closing hours, closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages, during all closing hours, shall not be sold, given away, delivered or consumed by anyone and the premises shall not be loaned, rented or leased to anyone during closing hours.

4-76.07 Violations; Revocation or Suspension of License.

Any licensee for sales of alcoholic beverages by the drink or package who remains open for business or sells alcoholic beverages at any time except the hours permitted under this Chapter shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this ~~Code~~ Chapter and his license shall be subject to revocation or suspension within the discretion of the City Alcoholic Beverage Control Administrator.

~~4-7.08~~ ~~Exception for Convention Centers.~~

~~The above restrictions do not apply to convention center licenses as provided under KRS 243.050(4).~~

4-87 PROHIBITIONS, RESTRICTIONS AND REGULATIONS.

All prohibitions, restrictions and regulations pertaining to alcoholic beverages found in the Kentucky Revised Statutes and the administrative regulations adopted by the Commonwealth of Kentucky at KRS 244.010-244.990 shall apply to alcoholic beverage use in the City of Bowling Green.

4-98 ADDITIONAL LOCAL REGULATIONS.

4-98.01 Exception for Restaurant Hours of Sale, Requirements.

A premise that can demonstrate to the City Alcoholic Beverage Control Administrator that

(Ordinance No. BG2013 - 42)

the 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 shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public; provided however, that all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

4-98.02 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.

4-98.03 Entertainment Activity.

a. It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person performs or appears on premises licensed for the sale of alcoholic beverages in a manner or attire as to expose to view of the patrons of the establishment at any time the portion of the female breast below a horizontal line across the top of the areola at its highest point, human genitals, pubic region, anus, cleft of the buttocks, or male genitals in a discernible, turgid state, even if completely and opaquely covered, or employ any device or covering intended to give the appearance of or to simulate male or female genitals, pubic region, anus, cleft of the buttocks or female breast below a horizontal line across the top of the areola. The definition of breast shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the

(Ordinance No. BG2013 - 42)

human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

b. No alcoholic beverage licensee, employee, or agent thereof shall permit any person to perform or appear on its premises in a manner or attire as to expose to view of the patrons of the establishment at any time the portion of the female breast below a horizontal line across the top of the areola at its highest point, human genitals, pubic region, anus, cleft of the buttocks, or human or *simulated male genitals in a discernible, turgid state, even if completely and opaquely covered*, or permit any person to employ any device or covering intended to give the appearance of or to simulate male or female genitals, pubic region, anus, cleft of the buttocks or female breast below a horizontal line across the top of the areola. The definition of breast shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

c. No alcoholic beverage licensee, employee, or agent thereof shall allow, encourage or permit any person on the licensed premises to touch, caress or fondle the breast, buttocks, anus or genitals of any other person.

d. No alcoholic beverage licensee, employee, or agent thereof shall allow, encourage or permit any person on the licensed premises to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic region ~~hair~~ or any portion thereof.

e. No alcoholic beverage licensee, employee, or agent thereof shall allow, encourage or permit any person to perform acts of or acts which simulate or to show film, still pictures, electronic reproductions or other visual reproductions depicting:

1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(Ordinance No. BG2013 - 42)

2. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
3. The displaying of the pubic hair, anus, vulva or genitals; or,
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or

drawings are employed to portray, any of the prohibited activities described above.

f. Subject to the provisions of this Section, any entertainer employed or used by the licensee or permitted to dance or to entertain at the licensed premises shall perform, dance or entertain only upon a stage at least twelve (12) inches above the immediate floor level and removed at least six (6) feet from the nearest patron. No spectator, patron or persons other than entertainers or dancers shall be present on the stage during the course of the entertaining or dancing. No entertainer or dancer shall be permitted to have any physical contact with any patron or spectator while that entertainer or dancer is performing.

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

h. 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.

i. *Three (3) 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.*

j. 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.

k. 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 retail malt beverage ~~beer~~ license or both.

(Ordinance No. BG2013 - 42)

1. 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.

4-98.04 Persons Under Age Twenty-One (21) Not Allowed on Licensed Premises.

a. Licensee. No person holding any license for on-premises consumption of distilled spirits, wine or malt beverages, or any of his clerks, servants, agents or employees shall permit any person under the age of twenty-one (21) years on the licensed premises and shall post notice of this restriction at all entrances, unless such premises is a restaurant, grocery store, drug store, hotel, private club, park, fair, bowling alley, racquetball complex, tennis complex, pool-hall complex, place where live sports or athletic events are scheduled, or upon premises for a temporary licensed event, including plays or bona fide concerts; ~~in such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.~~ For the purposes of this Section, a “pool-hall complex” is defined as an establishment, the principal purpose of which is the playing of pool and/or pocket billiards, with a minimum of five (5) regulation-sized pool tables. No person holding a retail package license, or any of his clerks, servants, agents or employees shall permit any person under the age of twenty-one (21) unless accompanied by parent or legal guardian to enter his facility, structure, building, or other area wherein the retail sale of distilled spirits, wine, or malt beverages are either sold or stored and shall be required to post notice of this restriction on all facility, structure, building, or other area entrances wherein the public is granted access.

b. Minor. No person under the age of twenty-one (21) years ~~of age~~ shall enter premises licensed for on-premise consumption of distilled spirits, wine or malt beverages, unless such premises is a restaurant, grocery store, drug store, hotel, private club, park, fair, bowling alley, racquetball complex, tennis complex, pool-hall complex, place where live sports or athletic events are scheduled,

(Ordinance No. BG2013 - 42)

or upon premises for a temporary licensed event, including plays or bona fide concerts.—~~In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area. A “pool-hall complex” is defined hereinabove as an establishment, the principal purpose of which is the playing of pool and/or pocket billiards, with a minimum of five (5) regulation-sized pool tables. No person under the age of twenty-one (21) unless accompanied by parent or legal guardian shall enter a facility, structure, building, or other area of a premises licensed for retail package sales wherein the retail sale of distilled spirits, wine, or malt beverages are either sold or stored.~~

c. 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. unless 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.

d. The prohibitions set forth in Subsections (a), (b) and (c) above shall not apply to persons under the age of twenty-one (21) who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working, and at no other time.

e. 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 one hundred (\$100.00) dollars.

(Ordinance No. BG2013 - 42)

2. For each subsequent offense a fine of up to two hundred fifty (\$250.00) dollars or confinement in jail for up to one hundred twenty (120) days, or both.

4-98.05 Unlawful for Persons Under Twenty-One (21) Years of Age to Possess or Consume Alcohol on Licensed Premises.

a. A licensee or any of his clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

1. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) years to possess or consume any alcoholic beverage on the premises; or,

2. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.

b. Conviction of permitting unlawful possession or consumption of alcoholic beverages on the premises is a misdemeanor and is punishable by a fine of up to five hundred (\$500.00) dollars or confinement in jail for up to twelve (12) months, or both.

4-98.06 Administrator to Conduct Hearing in Event of Violation of 4-98.04 and 4-98.05.

a. In the event a violation of Sections 4-98.04 and/or 4-98.05 occurs, the City Administrator shall forthwith conduct a hearing pursuant to applicable state law ~~KRS 243.520 (in conjunction with 241.160 and 241.190)~~, to determine whether the licensee, at whose business establishment the activity prohibited by the aforementioned Sections occurred, may have his license suspended or revoked.

b. In the event three (3) or more violations of Sections 4-98.04 and/or 4-98.05 above

(Ordinance No. BG2013 - 42)

occur at a business establishment within a twelve (12) month period, the City Administrator, after a hearing, shall suspend or revoke said license.

4-98.07 Keg Registration.

a. As used in this Section, “keg” is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

b. All retail licensees (herein after referred to as “licensee”) operating within the City of Bowling Green who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the City to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

1. The purchaser is of legal age to purchase, possess and use the malt beverage;
2. The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
3. The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
4. The purchaser will state the property address where the keg will be consumed and physically located and will notify the licensee in writing of a change of the property address where the keg will be physically located and consumed; and,
5. The purchaser is aware of his/~~her~~ duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

c. The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver’s license number and, if that is not available, to produce at least one (1) other valid form of identification.

d. The licensee shall retain copies of the keg registration forms for a period of one (1)

(Ordinance No. BG2013 - 42)

year and shall make the keg registration form available for inspection by State and City ~~local~~ alcoholic beverage control officers and other enforcement officers.

e. The keg registration form shall be forwarded to the City Administrator within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

f. The City Administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

g. All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the City concerning the provisions of this Section.

h. It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. It shall also be unlawful for the purchaser of the keg to file a false registration form or fail to comply with all of the requirements set out in the registration form. The penalties for violation of this Section shall be the penalties as set out in Subchapter 4-10 hereinbelow. In addition, licensees violating this Section shall be subject to appropriate alcoholic beverage control administrative remedies.

4-98.08 Mandatory Server Training.

a. "Server" for purposes of this Section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages where alcoholic beverages are sold or dispensed by the drink or where malt beverages are sold for consumption on the premises and whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises.

b. Continued employment by a person employed by a licensed premise as a server

(Ordinance No. BG2013 - 42)

~~requires the server to~~ ~~No person shall be employed by a licensed premise as a server unless the server~~ ~~has successfully completed a~~ server training course provided by the Kentucky Department of Alcoholic Beverages Control or other City-approved alcoholic beverage server training program. This training program shall be completed for all newly hired servers within thirty (30) days of the first date of employment. Servers successfully completing the training shall receive a server certification from the server training program. Each server shall successfully complete a new server training program to be recertified not less than once every three (3) years.

c. No licensed premise in which alcoholic beverages are sold by the drink or malt beverages are sold for consumption on the premises shall allow any server employed over thirty (30) days to sell, dispense or service any alcoholic beverage or malt beverage or to manage any such licensed premises unless that server is the holder of a current server certification. Each such licensed premise shall maintain a file at the licensed premise for each server for whom training is required. The file shall contain the name, job description, date of employment and proof of certification of each server regulated by this Section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

d. Any person working at a special event for which a temporary alcoholic beverage license has been approved shall not be required to comply with this Section.

4-9 SPECIAL TEMPORARY LICENSES.

A Special Temporary license may be issued as provided by the Kentucky Revised Statutes. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink license and a Nonquote Type 4 Retail Malt Beverage license for a specified and limited time. Any for profit company seeking a Special Temporary license to benefit a nonprofit cause shall provide the required information to the City Administrator in a timely fashion in order that the Mayor can determine whether the Special Temporary license application constitutes a civic event as required by State law.

(Ordinance No. BG2013 - 42)

Any determination by the Mayor that the application does not constitute a civic event may be appealed to the Board of Commissioners with written notice being delivered to the Office of City Clerk.

4-10 PENALTIES.

Any person who violates any provision of this Chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall, for the first offense, be fined not less than one hundred (\$100.00) dollars and not more than two hundred (\$200.00) dollars, or be imprisoned in the county jail for not more than six (6) months or both; and for the second and each subsequent violation, shall be fined not less than two hundred (\$200.00) dollars and not ~~or~~ more than five hundred (\$500.00) dollars, or be imprisoned in the county jail for not more than twelve (12) months or both. If a person who violates any provision of this ~~article~~ Chapter is a corporation, partnership, joint stock company, association or fiduciary, then the president and/or the principal officer or partner responsible for such violations may be punished by imprisonment as authorized by this Section.

2. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

4. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on November 19, 2013, and given final reading on December 3, 2013, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

(Ordinance No. BG2013 - 42)

ADOPTED: December 3, 2013

APPROVED: Bruce Wilkinson
Mayor, Chairman of Board of Commissioners

ATTEST: Kathy Shaalen
City Clerk

SPONSORED BY: Commissioner Melinda Hill, Commissioner Bill Waltrip and Commissioner Joe W. Denning, 11/14/2013, 12:15 p.m.
First Reading of Ordinance No. BG2013-42 was amended from the floor at the November 19, 2013 Board of Commissioners meeting.