

**AN ORDINANCE RELATED TO THE  
AMENDMENT OF CHAPTER 111 ESTABLISHING  
UNIFORM REGULATION AND REQUIREMENTS  
FOR THE LICENSING AND REGULATION OF  
THE SALE OF ALCOHOLIC BEVERAGES,  
DECLARING THAT AN ECONOMIC HARDSHIP  
EXISTS WITHOUT THE CONTINUED SALE OF  
ALCOHOLIC BEVERAGE BY THE DRINK.**

WHEREAS, the City of Pikeville has requested and received legislative reclassification of the City of Pikeville from a Third Class City to a Fourth Class City which reclassification will take effect July 15, 2011.

WHEREAS, ABC regulation and statutes adopted by the Commonwealth only allow the Sale of alcoholic beverage by the drink in Cities of the Fourth Class upon a determination by the legislative body that an economic hardship exists within the City and that the sale of alcoholic beverage by the drink could aid economic growth; and

WHEREAS, the Commission for the City of Pikeville has determined that an economic hardship exists within the City and that the sale of alcoholic beverage by the drink could aid economic growth within the City and that the suspension of the sale of alcoholic beverage by the drink as the result of reclassification would result in an economic hardship for the business already located within the City that currently have alcoholic beverage by the drink licenses and further would result in a drop in license fee collections for alcoholic beverage by the drink sales in a particular difficult economy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

**CHAPTER 111: ALCOHOLIC BEVERAGES**

**GENERAL PROVISIONS**

**§ 111.01 SHORT TITLE.**

This chapter shall be known and may be cited as the "Pikeville Alcoholic Beverage Control Chapter".

## **§ 111.02 DEFINITIONS.**

Words used throughout this chapter, unless the context requires otherwise, and unless specifically defined herein, shall have the same definitions as those set forth in the Kentucky Alcoholic Beverage Control Law, as contained in KRS Chapters 241 through 244.

## **§ 111.03 SCOPE.**

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city from the restrictions, requirements, and penalties of any other regulation of the city or of the state.

## **§ 111.04 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.**

The provisions of the alcoholic beverage control law of the Commonwealth of Kentucky, as contained in KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

## **LICENSES**

### **§ 111.15 TYPES OF LICENSES; FEES.**

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

	Type of License	Fee
(A)	Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B)	Retail Distilled Spirits and Wine (Package)	600.00

(C) Distributor (Malt Beverage) 400.00

(D) Retail (Malt Beverage)  
(1) New Applicants 200.00  
(2) Renewals 150.00

(E) Restaurant wine  
(1) new applicants \$600  
(2) renewals \$400

(F) Restaurant and Hotel distilled spirits and wine drink \$600.00

### § 111.16 ISSUANCE OF LICENSE.

(A) Initially, there shall be no more than thirteen (13) retail distilled spirits and wine licenses issued in the city.

(B) The City ABC Administrator, in his sound discretion, shall issue the types of licenses authorized under this subchapter. In exercising his discretion, the City ABC Administrator may consider, in addition to other factors, the location of the proposed premises, the availability of parking facilities to serve the proposed premises, the financial benefit to the city, and the financial stability of the applicant and the applicant or renewal applicant compliance with the law. He shall have full police powers of a peace officer in his/her jurisdiction. An person making application for and holding a license under this ordinance is deemed to have irrevocably consented to the City ABC Administrator, City Building Inspector, City Fire Inspector and the City of Pikeville Police Department to come upon and inspect and search the licensed premises at any reasonable time to ascertain the licensee compliance with the laws of the Commonwealth and City of Pikeville related to the sale of alcoholic beverages.

(C) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official.

(D) No license shall be issued or renewed to any person or company which has outstanding an taxes, interest or penalties to the City of Pikeville.

(E) All licenses shall expire on June 30 of each year.

### § 111.17 REGULATORY LICENSE FEE IMPOSED.

(A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly.

## **SALE OF ALCOHOLIC BEVERAGES**

### **§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<b><u>Day</u></b>	<b><u>Prohibited Hours of Sale</u></b>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 12:00 a.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

(C) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic beverages on the day of any national, state, county, municipal, or school election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

### § 111.31 APPROVAL OF PREMISES.

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

**BONA FIDE RESTAURANT.** Any premises which are kept, used, maintained, advertised, and held out to the general public as premises where meals are prepared and served, for consumption on the premises, on a regular basis and which derives seventy percent (70%) or more of its gross annual income from the sale of food which is prepared, served, and consumed on the premises and which has a minimum seating capacity of one hundred (100) people at tables.

**LICENSE.** Any premises licensed by the city to sell alcoholic beverages on a wholesale or retail basis.

**BONA FIDA HOTEL.** Any hotel, motel or sleeping inn containing not less than Fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons.

(B) No holder of a retail malt beverage license shall permit the consumption of alcoholic beverages on the licensed premises unless it is a bona fide restaurant or hotel.

(C) The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until such time as the applicant shall have had its place of business approved by the County Health Department, the State Fire Health Department, the City Building Inspector, and State Fire Marshal; and, no license shall be issued to any person, firm, or corporation for the selling at retail or wholesale of alcoholic beverages at any premises or location which is in violation of any of the city's ordinances and regulations.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

The ordinance shall be in full force and effect after it is passed and published as required by law and no sooner than July 15, 2011. The above ordinance was given first reading this 11<sup>th</sup> day of April, 2011, the ordinance was given a second reading on the 25<sup>th</sup> day of April, 2011.

Passed this 25<sup>th</sup> day of April 2011.

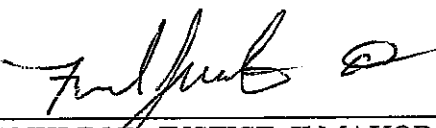
Commissioner Chaney moved for the adoption of the forgoing ordinance.

Commissioner Carter seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	<u>X</u>	___
GENE DAVIS, COMMISSIONER	<u>X</u>	___
DALLAS LAYNE, COMMISSIONER	<u>X</u>	___
JIMMY CARTER, COMMISSIONER	<u>X</u>	___
BARRY CHANEY, COMMISSIONER	<u>X</u>	___

The Mayor declared the within ordinance adopted.

  
FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

  
CHRISTY BILLITER, CITY CLERK