

## TITLE 3

### ALCOHOLIC BEVERAGES

#### CHAPTER 1 - IN GENERAL

##### 3-101 Definition

##### 3-102 Drinking in Public Places, Illegal Possession

##### 3-103 Restrictions on the sale

##### 3-104 Violations - Penalties

#### **CHAPTER 1 - IN GENERAL**

##### Section 3-101 Definitions

Words and phrases defined in West Virginia Code 11-16-2, 60-1-5 and 60-7-2 shall have the same meanings as therein defined wherever such words and phrases are used in this Title.

##### Section 3-102 Drinking in public places, illegal possession

It shall be unlawful for any person to:

- (a) Appear in a public place in an intoxicated condition
- (b) Drink alcoholic liquor in a public place
- (c) Drink alcoholic liquor in a motor vehicle on any street or in a public place
- (d) Tender a drink of alcoholic liquor to another person in a public place
- (e) Possess alcoholic liquor in an amount in excess of one gallon in containers not bearing stamps or seals of the West Virginia Alcohol Beverage Control Commission, without first having obtained written authority from the commission therefor.
- (f) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions on Chapter 60 of the Code of West Virginia

##### Section 3-103 Restrictions on the sale

No sale of nonintoxicating beer or intoxication liquor shall be made to the following persons within this municipality:

- (1) A person less than twenty one years of age
- (2) A person addicted to alcoholic beverages
- (3) A person is who addicted to the use of narcotic drugs
- (4) A person declared mentally incompetent by a court of legal jurisdiction

##### Section 3-104 Violation - Penalties

A violation of any provision of this chapter shall be punishable by a fine of not more than \$200 or imprisonment of not more than 30 days.

AN ORDINANCE TO AMEND CHAPTER 3 OF THE CODE OF THE CITY OF DANVILLE BY ADDING, AND ENACTING, A NEW ARTICLE THERETO, DESIGNATED ARTICLE IV, TO IMPOSE A RETAIL LICENSE FEE UPON RETAIL OUTLETS PRACTICING THE SALE OF LIQUOR BY THE BOTTLE IN THE CITY OF DANVILLE.

Whereas, the State of West Virginia, under West Virginia Code Section 60-3A-2 has declared that the sale of liquor at retail should no longer be by the State, but rather by retail licensees; and

Whereas, West Virginia Code Section 60-3A-12 imposes an annual retail license fee period beginning July 1st and ending on the 30th day of June of the following year; and

Whereas, the State Class A retail license fee is \$1,500.00 per outlet and the State Class B retail license fee is \$500.00 per outlet; and

Whereas, the City of Danville is authorized to require establishments selling liquor to first obtain license and set a fee thereon; and

Whereas, said license fee shall be no greater amount than the State fee; and

Whereas, there is no City ordinance in effect which would cover the retail sale by liquor stores by the bottle;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF DANVILLE, BOONE COUNTY, WEST VIRGINIA,

That Chapter 3 of the codified ordinances of Danville, West Virginia, be amended by adding thereto, and enacting thereof, a new article designated Article IV which shall read as follows:

#### ARTICLE IV. Liquor License Required; Fee

##### Section 3-36 Liquor License Required

As the State of West Virginia shall require a retail outlet to obtain a liquor license from the State, the City of Madison shall also issue liquor licenses subsequent to the retail outlet receiving a liquor license from the State. After the issuance of a State liquor license the applicant shall then file an application for a City liquor license with the Recorder of the City of Danville.

##### Section 3-17. Fee.

The annual retail license period shall be from the first day of July to the 30th day of June of the following year. The annual retail license fee, if an applicant holds a Class A retail license as defined under Section 60-3A-7, Code of West Virginia, shall be the sum of fifteen hundred dollars (\$1500.00) per outlet. The annual retail license fee if an applicant holds a Class B retail license shall be five hundred dollars (\$500.00) per outlet, provided, the fee for a liquor license issued after July 1st of any year for a period of time less than a full twelve month period, shall be pro-rated based on the number of days remaining between the date of issuance and the following thirtieth day of June, provided however, the pro-rated fee adjustment shall apply only to a new application and license for a heretofore unlicensed outlet location, and shall not apply to renewal requests.

##### Section 3-18. Renewal of license

A retail liquor license shall expire of the thirtieth day of June of each year irregardless of the issue date and may be renewed only upon submission of a renewal request to the Recorder of the City.

##### Section 3-19. Revocation or Suspension.

A liquor license may be revoked or suspended for violation of State law or violation of the provisions of this ordinance or provisions of other sections of the City Code as they may apply. No person shall sell liquor at any retail outlet if the retail license applicable to such outlet has been revoked or suspended, or has expired.

##### Section 3-20. License Limitation

All retail licenses issued or renewed under the provisions of this article shall expire and be of no further force or effect as of the first day of July in the year two thousand. Licenses issued thereafter will be so issued in accordance with applicable law.

##### Section 3-21. Violations.

Violations of the provisions of this ordinance shall be punishable by a fine of five hundred dollars (\$500.00) and/or imprisonment for up to 30 days. The manager of any retail liquor outlet shall be regarded as the responsible person as though he/she were the owner, and upon conviction in Municipal Court or any Court of competent jurisdiction, shall be subject to such penalties.

##### Section 3-22. Severability

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

##### Section 3-22. Enactment

This ordinance shall be effective from the date of passage and immediately thereafter shall be codified to become a permanent Article of Chapter 3, Code of the City.

Pass on first reading this 2nd day of April, 1991. Motion by Rex Burton, second by Sigel Tawney, unanimous.

Municipality of Danville, Boone County, West Virginia.  
Mark A. McClure, Mayor

Attest:

Peggy Kirk, Recorder

AFFIDAVIT OF PUBLICATION

State of West Virginia  
County of Boone, to wit:

I, A. L. Jarrell, being first sworn upon my oath, do depose and say that I am president of Hometown Newspapers, Inc., a corporation, and publisher of the newspaper entitled the HOMETOWN NEWS, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute all affidavits of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published weekly on Wednesday, for at least fifty weeks during the calendar year, in the Municipality of Madison, Boone County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters; that the annexed

notice of An ordinance to amend Chapter  
3 of the City of Danville by adding.

was duly published in said newspaper once a week for 2 successive weeks, com-

mencing with the issue of the 1st day of May 19 91.

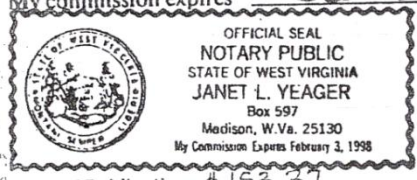
ending with the issue of the 8th day of May 19 91.

(and was posted at the \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_).

/s/ A. L. Jarrell  
A. L. Jarrell, Publisher  
HOMETOWN NEWS

Taken, subscribed and sworn to before me in my said county this 8th  
day of May, 19 91.

My commission expires February 3, 1998



/s/ Janet L. Yeager  
Janet L. Yeager  
Notary Public of West Virginia

Cost of Publication \$153.37