

BOYD COUNTY FISCAL COURT
ORDINANCE NO. 2020-03

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**AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGE
CONTROL ESTABLISHING AN ALCOHOLIC BEVERAGE
CONTROL ADMINISTRATOR PROHIBITING CERTAIN
ACTIVITIES BY ALCOHOLIC BEVERAGE LICENSEES AND
SETTING PENALTIES FOR VIOLATION**

WHEREAS, the County of Boyd may, by and through a majority of registered voters, permit the presence of alcohol, manufacturing of alcohol, and sales of alcohol within the corporate limits of the county of Boyd in accordance with all applicable local, state, and federal law; and

WHEREAS, the County of Boyd, therefore, wishes to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverages, manufacturing, and sales pursuant to authorization under KRS Chapters 241 through 244, and all other applicable law.

Be it ordained by the fiscal court of county of Boyd, Commonwealth of Kentucky;

ARTICLE I. GENERAL

A. The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244 and/or applicable law.

B. The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws of the Commonwealth of Kentucky and all amendments and supplements thereto.

C. This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the county, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

D. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II. LICENSE REQUIREMENTS

A. County Licenses

For the privilege of causing, permitting and engaging in the actions, business, and transactions Authorized thereby in regard to traffic in alcohol beverages in the county and pursuant to the authority of KRS 243.060, there is hereby established a corresponding county license for each of the state licenses described in KRS 243.060. The fee for each county license shall be as set out in the schedule set forth below. In the event KRS 243.60 shall hereafter be amended to authorize additional county licenses, the fee for each county license shall be the maximum fee provided in the statute as amended.

1. Quota Retail Package License, per annum

\$1,000.00

2.	Quota Retail Drink License, per annum	\$1,000.00
3.	Non-quota Type 2 Retail Drink License, per annum	\$1,000.00
4.	Non-quota Type 3 Retail Drink License, per annum	\$300.00
5.	Special Temporary Drink License, per event	\$166.00
6.	Special Sunday Retail Drink License, per annum	\$300.00
7.	Non-quota Retail Malt Beverage Package License, per annum	\$400.00
8.	Non-quota Type 4 Retail Malt Beverage Drink License, per annum	\$400.00
9.	Limited Restaurant License, per annum	\$1,400.00
10.	Limited Golf Course License, per annum	\$1,400.00
11.	Qualified Historic Site, per annum	\$1,030.00

B. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

C. The holder of a Non-quota retail malt beverage package license may obtain a Non-quota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Non-quota type 4 malt beverage drink license may obtain a Non-quota retail malt beverage package license for a fee of fifty dollars (\$50).

D. Expiration of License; Proration of Fees

All county licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after November 1 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half (1/2) the amount of the full fee for an annual license of that type.

E. Payment of License Fees; Delinquency

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this Ordinance.

F. Refund of Fees

(1) Should any licensee under this Ordinance be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the county shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on business if the licensee provides sufficient proof to the County ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(2) In the event a violation of this Ordinance occurs that results in the suspension or revocation of the license, the county shall not be required to refund any portion of the license fee.

G. Disposition or Fees and any other type or payment to the County

The County ABC Administrator shall transmit all fees and any other types of payment made to the County, upon collection, to the County Treasurer, or his/her designee, for deposit into the appropriate designated account.

ARTICLE 111. COUNTY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

(1) Pursuant to KRS 241.110, there is hereby created the duties of the County of Boyd Alcoholic Beverage Control Administrator.

(2) The County Judge Executive shall serve as the County Alcoholic Beverage Control Administrator (hereinafter referred to as County ABC Administrator), unless the County Judge Executive shall appoint someone else to fill the position pursuant to KRS 241.110

(3) The County ABC Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this ordinance with approval of the Fiscal Court.

(4) The functions of the County ABC Administrator shall be the same with respect to the county licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations.

(5) To prevent potential conflicts of interests, no person shall be a County ABC Administrator, an investigator, or an employee of the county, under the supervision of the County ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(6) The County ABC Administrator shall have authority delegated by the Fiscal Court, and as authorized under KRS Ch. 241 through 244. The County ABC Administrator, along with any designated investigator(s), shall have full police powers of law enforcement, and their jurisdiction shall be that portion of the county which lies outside the corporate limits of any city that has appointed its own city ABC administrator. The County ABC Administrator and/or his investigators as a condition of continued licensing, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(7) The County ABC administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licensee under KRS 244.150 and the County ABC Administrator shall be provided copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

B. Appeals

(1) Appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing a notice of appeal with the Board within thirty (30) days after the decision or order of the County ABC Administrator is mailed or delivered by personal service. The notice of appeal shall specify the county administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the County ABC Administrator and County Attorney shall be accompanied by a copy of the decision or order being appealed. Matters at

issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the county administrator shall be governed by KRS Chapter 13B.

(2) When any decision of the County ABC Administrator has been appealed, or when a protest has been lodged against an application for any license within the county, and the ABC Board has made a decision regarding such appeal or protested application, the County ABC Administrator, upon receipt of notice of finality of the decision, shall enter the orders and take action as required by the final order of the ABC Board. No order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by the Board. If a court appeal is taken from the Board's order, the "final order" is the order entered by the Board upon direction from the final order of the reviewing court of last resort.

ARTICLE IV. APPLICATION AND MAINTENANCE OF LICENSE

A. Advertisement

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS 243.360 and Chapter 424. The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

B. Form of Application

All licenses granted under this chapter shall be approved by the County ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Kentucky ABC Board and/or the County, both of which may be amended and supplemented from time to time by each respective agency. Each application shall be accompanied by a check or money order for the license fee. In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the County ABC Administrator.

C. Other Conditions

In addition to any -Other inquiries, conditions or considerations required or permitted by law:

(1) The County ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by a licensed building inspector with proof submitted to the County ABC Administrator, and any and all other inspections required by the Kentucky Building Code or other applicable law;

(2) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the County, fees of any type, or charges due to any department of the county at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the County. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

(3) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the County ABC Administrator, or any member of the County's staff, or any state ABC Administrator or staff, in any matter in which an application or proposed application

for license, or procedure for revocation or suspension is pending before such officer. This provision is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a county or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this Ordinance. Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the Ordinance and applicable statutes allow for such payments in settlement.

D. Change of Information

(1) If after a license to individuals or to a sole proprietor has been issued, and there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the County ABC Administrator with ten (10) days of the change.

(2) Since a number of licenses issued by the county are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the County ABC Administrator. The County ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

E. Renewal of License

(1) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the County ABC Administrator no less than thirty (30) days prior to the expiration of the license. The County ABC Administrator is hereby authorized to extend the time for filing of a renewal; provided, however, the licensee shall pay a license fee from the expiration date of the former license or licenses. The license fee shall not be payable until application is made for the transfer of the license to a new location.

(2) The renewal of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

F. Revocation or Suspension.

(1) Any license may be revoked or suspended by the County ABC Administrator if the licensee shall have violated any of the provisions of KRS Ch. 241 to 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the county in existence or authorized by the terms of KRS Ch. 241 to 244 to be created,

irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the County ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(2) A license may be revoked for any of the reasons for which the County ABC Administrator would have been required to refuse a license if the facts had been known.

(3) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

- (a) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed.
- (b) Making any false, material statements in an application for a license.
- (c) If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (!) such misdemeanor.
- (d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this Ordinance, or acts of Congress relative to taxation or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof.
- (e) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or hand book or facility for betting or transmitting bets on horse races; or penning to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

G. Proceedings for Revocation or Suspension of License

(1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the County ABC Administrator, the County ABC Administrator may institute proceedings to revoke or suspend any license granted under this Ordinance. A license may be revoked or suspended only after the licensee, shall have been given written notice, by personal service upon the licensee or any owner, manager or employee over the age of 18 years that may be found upon the licensed premises and/or certified, registered or regular mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(2) A decision of the County ABC Administrator revoking or suspending a license may be appealed as provided in KRS 241.140 and Article III.

(3) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a

license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the County ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Boyd County Sheriff, at the request of the County ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the County ABC Administrator.

(4) When a license has been revoked or suspended, the former licensee may, with prior approval of the County ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(5) Appeal from the decision of the County ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay any penalty imposed by the order until conclusion of the Board appeal and any subsequent court appeals.

(6) If a license is revoked or suspended by an order of the County ABC Administrator, and the decision is not appealed, the licensee shall suspend all operations authorized under his or her license upon effective date of the order. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at suspend all operations authorized under this license upon effective date of the order.

H. Transfer or Assignment

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the County ABC Administrator.

I. Refusal of License; Guidelines for Approval of Quota Licenses

The County ABC Administrator may refuse to issue a license for any reason listed in KRS 243.450, 243.490 and 243.500, any violation of a county ordinance regarding alcohol beverage licensing, sales or the administration thereof, any act for which a revocation of license would be authorized under local, state, or federal law; or making any false material statement in his or her application. An applicant who has been refused a license by the County ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.140 and Article III.

J. Review of License; Books, Records and Reports

(1) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. The county may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. All books and records shall be maintained as required by the ABC Board. In the event the conditions of any license requirement are not met during any particular quarter, the County ABC Administrator shall have discretion in determining whether revocation is appropriate.

(2) Every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the County ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the County ABC Administrator.

K. Dormancy

A licensee shall conduct the business authorized by such a license or the license will be declared dormant and become null and void after ninety (90) days. Any licensee who is unable to continue in business at the premises due to any reason out of their control may file a verified statement with the County ABC Administrator requesting an extension from dormancy, with the license to remain in effect, until the issue is resolved. Such extension may not extend beyond the renewal date.

ARTICLE V. HOURS OF SALE

A. Hours of Sale

(1) Premises for which there has been granted a Quota Retail Package license shall be permitted to sell alcoholic beverage packages during the hours of 6:00 a.m. to 11:59:59 p.m. on each day.

(2) Premises for which there has been granted a Quota Retail Drink license, a Non-quota Type 2 Retail Drink license, a Non-quota Type 3 Retail Drink license or a Limited Golf Course license, and not holding a Special Sunday Retail Drink license shall be permitted to serve alcoholic beverages Monday through Saturday between the hours of 6:00 a.m. and 11:59:59 p.m. of the following weekday.

(3) Premises for which there has been granted a Non-quota Retail Malt Beverage Package license for the retail sales of package malt beverages shall be permitted to sell package malt beverages each day between the hours of 6:00 a.m. and 11:59:59 p.m.

(4) Premises for which there has been granted a Non-quota 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 11:59:59 p.m. and on Sunday from 10:00 a.m. until 11:59:59 p.m.

(5) Licensees which have been issued a Quota Retail Drink license, a Non-quota Type 2 Retail Drink license, a Non-quota Type 3 Retail Drink license or a Limited Golf Course license may apply for a Special Sunday Retail Drink license. Any premise granted a Special Sunday 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 10:00 a.m. until 11:59:59 pm.

(6) Premises licensed under Sections 4-6.02 and/or 4-6.03, 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.

(7) 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 Chapter and his license shall be subject to revocation or suspension within the discretion of the County Alcoholic Beverage Control Administrator.

(8) For those entities holding a license under this section, under subsections (2), (4) and (5) shall be permitted to serve distilled spirits, wine or malt beverages on New Years' Eve until 2:00 a.m. on January 1, provided that the appropriate licenses have been obtained from both the county and the state ABC board.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

A. Gambling

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises unless permitted by KRS 243.505. Dice, slot machines, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

B. Security

The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area 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.

C. Prizes and Premiums Prohibited

It shall be unlawful for a licensee to give away, or offer to give away, anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

D. Treating Prohibited

It shall be unlawful for the licensee under this Ordinance to give away any alcoholic beverage in any quantity for free or for less than paid or current wholesale cost, unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's) or products are sampled at an educational event authorized by 804 KAR 1:110 and 804 KAR 11:030, or a bona fide "close out" sale approved by the state Administrators.

E. Drunkenness

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

F. Underage Sales

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

G. Sign Requirements-Notice to Persons under the Age of Twenty-One (21)

The licensee shall display at all times in a prominent place a sign at least 8"x 11" in thirty (30) point or larger type font which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

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

G. License to be Displayed

The licensee shall display their license and all statutorily required signage in a conspicuous place so that all persons may readily see the license, in accordance with KRS 243.895.

H. Legal Transactions for Wholesalers, Distributors and Retail

No wholesaler or distributor shall sell any alcoholic beverages to any person in the county for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or cash equivalent at time of purchase.

I. Employment Restrictions

Licensees shall be in compliance with KRS 244.090 with regard to employment restrictions.

J. Nudity and Adult Entertainment Activities Prohibited

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the county.

K. Cause for Revocation

Violation of this and any other Article shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation or suspension of County licenses.

ARTICLE VII. MINORS

A. No person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

B. As provided in KRS 244.085 and 804 KAR 5:070, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21, may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(5) and 804 KAR 5:070. The prohibition contained in this

subsection shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, and other business types listed in KRS 244.085 and by the state Board in 804 KAR 5:070.

C. No person shall knowingly perm it, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this Ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

D. No person being the owner or occupant or otherwise in possession or control of any property located within the county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

E. It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090.

ARTICLE VIII. CONSUMPTION AT PREMISES PROHIBITED

A. Consumption at Package Store Prohibited.

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

A. Definitions

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. Malt Beverage Keg Identification Tag

All retail licensees (herein after referred to as "licensee") operating within the County 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 county 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
- (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. Keg Registration

(1) 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 other valid form of identification.

(2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

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

(4) The county is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the county concerning the provisions of this section.

D. Unlawful Sales

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. The penalties for violation of this section shall be the penalties as set out in this Ordinance. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

A. Enforcement

Boyd County Sheriff's Office deputies and the County ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

ARTICLE XI. PENALTIES

A. Penalties

(1) In addition to any criminal prosecution instituted in the courts of the Commonwealth against an alleged violator, the County ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the County ABC Administrator, who shall then transmit the fines to the County Treasurer for deposit in the appropriate designated account.

(2) Any person, who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a misdemeanor and shall for the first offense be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or be imprisoned in the county jail for not more than six months or both; and for a second offense, not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00), or imprisoned for not more than twelve months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the

offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be fined or imprisoned, or both.

ARTICLE XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory Responsible Beverage Service Training

(1) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete a server training course by the Kentucky Department of Alcoholic Beverages Control or other County-approved alcoholic beverage server training program.

(2) All persons required to complete training shall complete training within thirty (30) days of employment. When a new business is licensed to serve alcoholic beverages, all employees must be trained prior to the opening of the business.

(3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the County ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed must have at least one person currently certified in responsible beverage service training on duty when alcoholic beverages are being served.

(4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XIII. IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

A. Implementation of Changes in Ordinance Provisions

The Boyd County Fiscal court may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

B. Severability

C. Any Ordinance or Ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

This Ordinance is ADOPTED pursuant to KRS 67.077 in that it was published in summary form on the

_____ day of _____, 20 _____, and was introduced and read on the 7th

day of July, 20 20, and was given final reading on the 4th day of

August, 20 20, and said ordinance shall be in full force and effect upon signature, recordation, and publication in summary pursuant to KRS chapter 424 and KRS 67.077 Subsection 3.

APPROVED this 4th day of August, 20 20



ERIC CHANEY
BOYD COUNTY JUDGE EXECUTIVE

ATTESTED:



SUSAN CAMPBELL DATE: 8/4/20
BOYD COUNTY CLERK

FIRST READING
DATE: 7-7-2020

VOTING:	COMMISSIONER WATTS	<u>YES</u>
	COMMISSIONER BROWN	<u>NO</u>
	COMMISSIONER STAPLETON	<u>YES</u>
	JUDGE CHANEY	<u>YES</u>

SECOND READING
DATE:

COMMISSIONER WATTS	<u>YES</u>
COMMISSIONER BROWN	<u>NO</u>
COMMISSIONER STAPLETON	<u>YES</u>
JUDGE CHANEY	<u>YES</u>