

## ORDINANCE NO. 410.1

AN ORDINANCE AMENDING PART A OF SECTION 31 OF ORDINANCE NO. 410.0  
RELATING TO ALCOHOLIC BEVERAGE SALES IN BOYLE COUNTY, KENTUCKY,  
AND PERMITTING EXTENDED SALES OF ALCOHOLIC BEVERAGES

WHEREAS, the owners of AJE Golf, LLC, d/b/a "Old Bridge Golf Club" have petitioned the Boyle County Fiscal Court to extend the sale of alcoholic beverages at that facility by permitting the sale thereof on Sunday of each week; and

WHEREAS, the Boyle County Fiscal Court finds that such an extension of the sale of alcoholic beverages would have no adverse effects upon the safety and welfare of the citizens of the County of Boyle, could create beneficial economic effects for the County, and would produce fair and equal opportunities for those engaged in the lawful sale of alcoholic beverages within the County;

NOW, THEREFORE, be it ORDAINED by the Fiscal Court of the County of Boyle, Commonwealth of Kentucky, as follows:

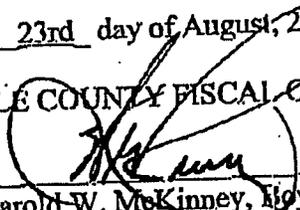
Part A of Section 31 of Ordinance No. 410.0 be and is amended to read:

Retail Sale for Consumption on Licensed Premises. Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 8:00 a.m. and 11:00 p.m. each day, but shall be closed during the twenty-four (24) hours of each Christmas; and at any time the polls are open for any election in the precinct in which the license is granted; however, if the licensee provides a separate department within the licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and if the department is kept locked during the foregoing time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.

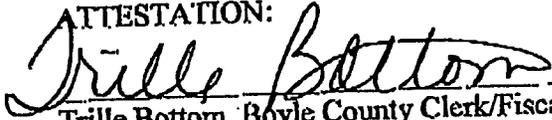
This Ordinance shall be effective upon its passage after the second reading and publication.

This 23rd day of August, 2011.

BOYLE COUNTY FISCAL COURT

By:   
Harold W. McKinney, Boyle County Judge-Executive

ATTESTATION:

  
Trille Bottom, Boyle County Clerk/Fiscal Court Clerk

Given 1<sup>st</sup> Reading and Passed this 9th day of August, 2011.

Given 2<sup>nd</sup> Reading and Passed this 23rd day of August, 2011.

Publication Dates: August 14, 2011 and August 28, 2011

Ordinance No. 410.0

AN ORDINANCE RELATING TO  
ALCOHOLIC BEVERAGE SALES IN  
BOYLE COUNTY, KENTUCKY

Be it ORDAINED by the Fiscal Court of Boyle County, Kentucky:

1. DEFINITIONS.

The words and phrases used in this Ordinance shall have the same meaning as defined in KRS Chapters 241, 243, and 244.

2. SCOPE.

This Ordinance shall be applicable to all persons selling or offering to sell alcoholic beverages at retail and to all premises where alcoholic beverages are sold or offered for sale at retail in any unincorporated area of Boyle County, Kentucky.

3. DECLARED ADDITIONAL TO STATUTES, STATE REGULATIONS.

No part of this Ordinance is intended to alter or vary any requirements or regulations contained in the statutes of this state, or promulgated by any department or agency of the state pursuant to authority granted by such statutes. The purpose of this Ordinance is to impose certain local regulations in addition to those prescribed by the state and its agencies relative to the sale of alcoholic beverages at retail.

4. REGULATIONS APPLICABLE TO ALL BUSINESS ESTABLISHMENTS WHERE ALCOHOLIC BEVERAGES ARE SOLD AT RETAIL.

All business establishments, in any unincorporated are of Boyle County, Kentucky, where any kind of alcoholic beverages are sold at retail shall comply with the following requirements:

- A. All such premises shall include or be a part of a bona-fide eighteen (18) hole golf course meeting United States Golf Association criteria as a regulation golf course.
- B. All such premises shall be well lighted at all times during business hours.
- C. All such premises shall be subject to inspection at all times by the police officers of the county, by the County Alcoholic Beverage Control Administrator and by the law enforcement officers of the state. Such inspection may be carried out at any time during the hours that such business is open, and at any other times that the proprietor, the operator of the business, an employee, or any other person is within the premises. If

any person is within such premises and the street door is locked, any of the above-named law enforcement officers may force entrance into the premises in the event a demand by them for entrance is refused or ignored.

5. LICENSE REQUIRED FOR SALE.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the County, unless he shall first produce and have issued to him a license under the provisions of this Ordinance and all statutes of Kentucky and regulations adopted pursuant to such statutes and/or this Ordinance.

6. DATE LICENSES EXPIRE; PRORATION.

All licenses issued by the County shall be valid for a period of no more than one year. All licenses shall expire on June 30 of each year. Applications for renewal are to be filed with the County at least fifteen (15) days prior to expiration. Any person or business entity applying for a new license shall be charged the full fee for the respective license if six (6) months or more remain before the license is due to be renewed; however, if less than six (6) months remain before the license is due for renewal, the fee shall be one-half (1/2) the annual fee. In the event any licensee shall cease doing business for any reason, no refund of the County license fee shall be granted.

7. PERSONS AND BUSINESS ENTITIES THAT MAY NOT BE LICENSED.

No person shall become a licensee if prohibited from becoming such by any one of the provisions of KRS 243.100(1)(a) through (f); and neither shall a partnership, limited partnership, limited liability company, or corporation become a licensee if prohibited from being such by any one of the provisions of KRS 243.100(2)(a) through (c).

8. PUBLIC NOTICE OF INTENTION TO APPLY FOR LICENSE.

Any person, corporation, partnership, limited liability company, or other business entity, except an applicant for the same license for the same premises, shall, before applying for a license, advertise by publication of the intention to apply for a license in accordance with KRS 243.360.

9. LOCAL ADMINISTRATOR TO APPROVE APPLICATION FIRST.

An applicant for an alcoholic beverage license must be granted a county license approved by the County Alcoholic Beverage Control Administrator before becoming eligible to apply for a state license.

**10. APPLICATION FOR STATE LICENSE.**

All applicants for alcoholic beverage licenses must submit an application to the state in accordance with KRS 243.380.

**11. SUBMITTAL OF APPLICATION.**

An applicant for a license under this Ordinance shall file with the County Alcoholic Beverage Control Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The County application shall include the consent of the applicant permitting the County ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, with the temporary closure to remain in effect until review of the alleged violations by the County ABC Administrator within thirty-six (36) hours.

**12. CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE; AND APPEAL PROCESS.**

- A. Causes for refusal to issue or renew a license and for suspension or revocation of a county license shall be same as provided for state licenses according to KRS 243.450, 243.490, and 243.500, as well as violation of any county ordinance regarding beverage licensing, sales, or the administration of licenses.
- B. 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 County 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 County. If a licensee become delinquent in the payment of any taxes or any fees due to the county at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The County ABC Administrator may, in his discretion, approve a license to sell after receiving from the County Clerk, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the County Clerk for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees due and payable by the licensee.
- C. Appeals may be taken from decisions of the County ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

### 13. APPROVAL OR DENIAL OF APPLICATION

- A. If upon review of the application, the County ABC Administrator determines that the applicant has complied with all requirements of the Alcohol Beverage Control Law, as well as all regulatory provisions of this Ordinance, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the County ABC Administrator shall approve the application.
- B. If the County ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule, or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The County ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the County ABC Administrator; and any decision by the County ABC Administrator on the application shall be subject to appeal as provided by law.

### 14. PAYMENT OF FEES, REFUND OF FEE

- A. Upon approval of the application by the County ABC Administrator, the applicant shall pay the amount of the license fee provided in this Ordinance in the form of a certified check, money order, or cash. Payment shall be held in deposit by the County pending state license approval and issuance of the County license by the County ABC Administrator.
- B. If the payment of a license fee was erroneously made or the license not issued, the County shall authorize refund of the amount so paid.

### 15. ISSUANCE OF COUNTY LICENSES

The County licenses shall be issued and the fees collected by the County Clerk; however, a license shall not be issued by the Clerk without the approval of the County ABC Administrator.

### 16. POSTING OF LICENSES

Each County 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; and an exact duplicate or facsimile of each County license shall remain in the County Clerk's office as part of the public record.

**17. TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE**

The transfer, assigning, or acquisition of a County license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

**18. APPLICANT TO PAY FOR OWN LICENSE**

The license fee for a County license shall be payable by the person or business entity making application for the license and to whom or which it is issued, and no other person shall pay for any license issued under this Ordinance.

**19. DEPOSIT OF FEES**

All moneys derived from license fees or from fines as provided in this Ordinance shall be paid to the treasury of the County and become a part of the general funds of the County.

**20. LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

- A. Any license under which no business is transacted during a period of ninety (90) days shall become null and void; and, at the expiration of the ninety (90) day period, the license shall be surrendered to the County ABC 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 4:1110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for and granted by the ABC Administrator to the licensee, the licensee shall immediately notify the County ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the County ABC Administrator and a fee shall be due and payable to the County ABC Administrator for the period the license was in dormancy in the amount due had the license remained active for the same period.
- B. Applications based on pending construction or development applications approved by the County ABC 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. The County ABC Administrator may grant extensions as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.
- C. All renewals of licenses and payment of license fees must be on file with the County ABC Administrator fifteen (15) days prior to the expiration of the license 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 the expiration date of the license, setting forth the facts justifying an extension. The ABC 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 licensee shall pay the licensee fee from the expiration date of the former license or licenses and 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.

## 21. CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

If any alcoholic or malt beverages are found on the outside of the locked or closed-off area of any license premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this Ordinance from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or close-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for violations of this chapter, the County ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

## 22. LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE.

- A. No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent's or solicitor's license if such a license is required.
- B. No licensee shall sell or agree to sell any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent's or solicitor's license.

## 23. RETAIL SALES TO CERTAIN PERSONS PROHIBITED.

Retail sales of alcoholic beverages to any of the following are prohibited:

- A. A minor, except that, in any prosecution for selling alcoholic beverages to a minor, it is an affirmative defense that the same was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The evidence may be

introduced either in mitigation of the charge or as a defense to the charge itself.

- B. A person actually or apparently under the influence of alcoholic beverages.
- C. A habitual drunkard or any person convicted of alcohol intoxication as many as three (3) times within the immediately preceding twelve (12) month period.
- D. Except as provided in Section C above, anyone known to the seller to have been convicted of DUI or any misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony within the preceding twelve (12) months.

**24. MINORS NOT TO POSSESS OR PURCHASE LIQUOR NOR TO MISREPRESENT AGE-USE OF FRAUDULENT IDENTIFICATION**

- A. As used in KRS 244.083 and this section; "Premises" has the meaning given in KRS 241.010 and also means the place of business of a person or business entity licensed to sell alcoholic beverages.
- B. A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving alcoholic beverages.
- C. A person under 21 years of age shall not possess for his or her own use, purchase, attempt to purchase, or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- D. A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing the licensee or the licensee's agent servant, or employee to sell or serve any alcoholic beverages to the under-aged person.
- E. A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

**25. LICENSE TO DISPLAY NOTICE AS TO SALE TO MINORS; WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED**

- A. Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in third (30) point or larger type, substantially as follows:

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

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

- B. All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one(1) inch high, supplied by the State Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

**26. PERSONS WHOM LICENSEES MAY NOT EMPLOY**

- A. A person holding any County license shall not knowingly employ in connection with his or her business any person who:

- i. Has been convicted of any felony within the last two (2) years.
- ii. Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years.
- iii. Is under the age of twenty (20) years, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.
- iv. Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

- B. The provisions of paragraph (1) and (2) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.

- C. Violation of this section shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

## 27. CONDITIONS, PROHIBITIONS, AND RESTRICTIONS

- A. No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.
- B. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:
  - i. Engaging in fighting or in violent, tumultuous, or threatening behavior; or
  - ii. Making unreasonable noise; or
  - iii. Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
  - iv. Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
  - v. Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contact).
- C. No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.
- D. It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Boyle County, Kentucky, as it is now or may hereafter be operated. In addition, the Boyle County Sheriff or the County Alcohol Beverage Control Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.
- E. The licensee shall be responsible for maintaining security on its 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 premises, security standards to

discourage unlawful activity in and around the licensed premises shall be adopted and implemented by the licensee.

## 28. PENALTIES

- A. Any person who violates any provision of this Ordinance for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
- i. For the first offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00)
  - ii. For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail of not more than six (12) months, or both.
  - iii. Any proceeding for the revocation of any license issued by hereunder shall be governed in accordance with the provisions of KRS 243.480.
- B. Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

## 29. LICENSE FEES

An annual license fee of Eight Hundred Dollars (\$800.00) shall be paid to the County by each person or business entity granted a license under the terms and provisions of this Ordinance, it being deemed that the sums so raised are essential and necessary to fully reimburse the County for reasonably estimated expenses of additional policing, as well as regulatory and administrative costs. Such fee shall be in addition to any other taxes, fees, or licenses permitted by law.

## 30. SUSPENSION OF LICENSES

For violation of any section or provision of this Ordinance, the Alcoholic Beverage Control Administrator shall have the power and authority to suspend the license of any person or business entity licensed by the County to sell any kind of alcoholic beverage in the county, for a period of ten (10) days or until the offender is granted trial for such violation. If the offender is not brought to trial within ten (10) days of such suspension, the suspension shall be set aside. Upon conviction for violation of any provision of this Ordinance by a court of competent jurisdiction, the court may, within its discretion, order that such license be suspended for not less than thirty (30) days and not more than (1) year.

## 31. HOURS OF SALE AND DELIVERY

- A. Retail Sale for Consumption on Licensed Premises. Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 8:00 a.m. and 11:00 p.m. each weekday, but shall be closed during the twenty-four (24) hours of each Sunday, Christmas, and at any time when the polls are open for any election in the precinct in which the license is granted; however, if the licensee provides a separate department within the licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and if the department is kept locked during the foregoing time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.
- B. Wholesale Deliveries on Sundays Prohibited. All delivery of alcoholic beverages in the County shall be made during normal business hours, Monday through Saturday; and there shall be no delivery of alcoholic beverages on Sunday.
- C. Control of Premises During Closing Hours. During the closing hours, the premises of any licensee for the sale of alcoholic beverages by the drink must be 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 shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented, or leased to anyone during closing hours for a party or for any other purpose.
- D. Violations: Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this Ordinance and his license shall be subject to revocation or suspension within the discretion of the County Alcoholic Beverage Control Administrator.

## 32. COUNTY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

In accordance with KRS 241.110(1), the County Judge/Executive shall serve as the County Alcoholic Beverage Control Administrator; however, if, in his or her discretion, the County Judge/Executive declines to accept the said office, or after accepting same resigns therefrom, he or she may appoint a person to serve as County Alcoholic Beverage Control Administrator, provided that person meets the qualifications specified in KRS 241.110(1).

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33. CONFLICT; SEVERABILITY

In the event any provision of this Ordinance conflicts with any provision of Kentucky law governing the sale of alcoholic beverages, then that provision or portion of this Ordinance so conflicting shall be deemed void and of no effect to the extent of such conflict; and, if any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

34. EFFECTIVE DATE

To the extent provided hereinabove, prohibition within the unincorporated area of Boyle County, Kentucky, shall be effectively lifted as provided in KRS 242.200.

Given First Reading and Passed the 27 day of January, 2004.

Given Second Reading and Passed the 10 day of February, 2004.

Published by the Danville Advocate Messenger the 15 day of February, 2004.

BOYLE COUNTY FISCAL COURT:

ATTEST:

By: *Tony Wilder*  
Tony Wilder  
Boyle County Judge/Executive

*Denise B. Curtsinger*  
Denise B. Curtsinger  
Boyle County Clerk