

**Spencer  
County  
Ordinance No. 6  
Fiscal Year 2016 Series**

**AN ORDINANCE REGULATING THE SALE AND CONSUMPTION OF ALCOHOLIC  
BEVERAGES IN SPENCER COUNTY, KENTUCKY**

WHEREAS, pursuant to an election held on October, 2009, a majority of the voters of Spencer County, Kentucky were in favor of said County going "wet" and permitting alcohol sales:

WHEREAS, the Fiscal Court of Spencer County, Kentucky deems it necessary to regulate the sales of alcoholic beverages within its boundaries:

NOW THEREFORE, Be it Ordained by the Fiscal Court of Spencer County, Kentucky, hereby rescinds, repeals, and revokes Spencer County Ordinance No. 1, Fiscal Year 2014 Series, and as follows:

**Section 1.01 TITLE**

This ordinance shall be numbered as Spencer County Ordinance No6, Fiscal Year 2016 Series and shall be cited and known as the "Alcoholic Beverage Control Ordinance" of Spencer County, Kentucky.

**Section 1.02 PURPOSE.**

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 of KRS 241 through 244.

**Section 1.03 DEFINITIONS.**

The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241,242,243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

**Section 1.04 SCOPE.**

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 Ordinance 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 or ordinances of the County or of any statutes of the state relating to violations pertaining to alcoholic beverages.

**1.05 ADOPTION OF STATE LAW**

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241,242,243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

## **LICENSES; LICENSE FEES; REGULATORY LICENSE FEE; EXPIRATION OF LICENSE**

### **1.06 LICENSES GENERALLY.**

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic 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 following schedule, and may be amended from time-to-time as authorized by law.

### **1.07 LICENSE FEES**

Only those licenses set out in this subchapter shall be issued.

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|--|-----------|
| Distilled spirit licenses as set forth in KRS 243.030:   |           |
| Distiller's license, per annum   | \$500.00  |
| Rectifier's license, per annum   | \$3000.00 |
| Wholesaler's distilled spirits and wine license, per annum   | \$3000.00 |
| Quota retail package license, per annum  | \$1000.00 |
| Quota retail drink license per annum   | N/A       |
| Special temporary license, per event   | \$50.00   |
| Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages, per annum  | N/A       |
| Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum | \$1000.00 |
| Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum | \$300.00  |
| Distilled spirits and wine special temporary auction license, per event                                | \$200.00  |

|   |           |
|---|-----------|
| Special Sunday retail drink license, per annum              | \$300.00  |
| Caterer's license, per annum                                | \$800.00  |
| Bottling house or bottling house storage license, per annum | \$1000.00 |

|  |           |
|--|-----------|
| Brewer's license, per annum  | \$500.00  |
| Microbrewery license, per annum  | \$500.00  |
| Malt beverage distributor's license, per annum   | \$400.00  |
| Nonquota retail malt beverage package license, per annum   | \$400.00  |
| Nonquota type 4 retail malt beverage drink license; per annum  | \$400.00  |
| Malt beverage brew on premises license, per annum  | \$400.00  |
| Limited restaurant license (includes distilled spirits, wine, and malt beverages), per annum   | \$1400.00 |
| Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum  | \$1400.00 |
| <p>The holder of a Nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of \$50. The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of \$50. Any amount paid to any city within the County as a license fee for the same privilege for the same year may be credited against the County license fee.</p> |           |

#### **1.08 CERTAIN SPECIAL LICENSES DEFINED.**

(A) Special temporary licenses. A special temporary license may be issued only as set out in KRS 243.260. This license shall authorize the licensee to exercise the privileges of a quota retail

drink license and an NQ4 retail malt beverage licensee at designated premises for a specified and limited time, not to exceed 30 days, and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or an NQ4 retail malt beverage drink license shall apply also to a special temporary licensee.

(B) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten days. The temporary license may be issued in conjunction with any public or private event including but not limited to weddings, receptions, reunions, or similar occasions.

(C) All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses, unless otherwise provided by law.

(D) The Spencer County Fiscal Court, pursuant to KRS 243.072, finds that an economic hardship exists, due to the extensive opportunities presented to our County as a lake community, and that it would aid economic growth and provide business opportunities if distilled spirit and wine sales by the drink were available as part of a special event license.

(E) Pursuant to 243.260, a special temporary license for a qualifying event shall not be issued unless the purported licensee can demonstrate to the County ABC Administrator that adequate safeguards will be in place to prevent persons who are under the age of 21 from purchasing or consuming alcoholic beverages and that adequate security will be present to prevent unruly or disruptive behavior.

(F) (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to:

(a) A hotel that:

1. Contains at least 50 sleeping units;
2. Contains dining facilities for at least 50 persons; and
3. Receives from its total food and beverage sales at least 50% of its gross receipts from the sale of food;

A restaurant with a minimum seating for 50 consumers at tables;

(b) An airport; or

(c) A riverboat.

(2) A qualifying hotel, restaurant with seating for at least 50 consumers at tables, airport, or riverboat holding an NQ2 retail drink license may purchase, receive, possess, and sell distilled spirits, wine and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, or malt beverages only from licensed wholesalers or distributors. An NQ2 retail drink license shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package. The holder of an NQ2 retail drink license shall comply with the requirements of KRS 243.250.

(3) A restaurant, including a restaurant located within a hotel, holding an NQ2 retail drink license shall be required to establish during the license year that the gross receipts from the sale of food at said restaurants was equal to or greater than 50% of the total gross sales receipts of alcohol and food combined.

(G) A "Nonquota type 3" or "NQ3" retail drink license may be issued to:

- (1) A private club in existence for longer than one year prior to the license application; or
- (2) A dining car.

(H) A "Nonquota type 4" or "NQ4" retail drink license may be issued to the holder of a quota retail drink license, microbrewery license, small farm winery license, or any other business wishing to sell malt beverages by the drink for consumption on the premises only.

(I) Special License required for Sunday sales.

#### **1.09 EXPIRATION OF LICENSE; PRORATION OF FEES.**

All County licenses shall begin on February 1<sup>st</sup> of any year and shall expire on January 31<sup>st</sup> of the following year. Any licenses issued after February 1<sup>st</sup> 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.

#### **1.10 PAYMENT OF LICENSE FEES: DELINQUENCY.**

No licensee shall enter into or begin operating any business for which a license is required by this Ordinance 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 by law.

#### **1.11 REFUND OF FEES.**

(A) 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 said 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.

(B) 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.

#### **1.12 DISPOSITION OF FEES.**

The County shall transmit any fees received upon collection into the appropriate designated account.

**OFFICE OF THE COUNTY ALCOHOLIC BEVERAGE CONTROL  
ADMINISTRATOR**

**1.13 ESTABLISHED DUTIES**

- (A) Pursuant to KRS 241.110, there is hereby created the office of County Alcoholic Beverage Administrator.
- (B) The Spencer County Judge Executive shall serve as the County Alcoholic Beverage Control Administrator (hereinafter referred to as County ABC Administrator), unless the Spencer County Judge Executive shall appoint someone else to fill the position pursuant to KRS 241.110.
- (C) The Spencer County Judge Executive may from time to time appoint such additional personnel as is necessary to assist the County ABC Administrator in the administration of this Ordinance.
- (D) The salary for the office of County ABC Administrator, if any, together with the salaries of any other personnel assisting the County ABC Administrator, shall be fixed from time to time by the Spencer County Fiscal Court.
- (E) 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, except that no amendment to these regulations proposed by the County ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the County ABC Administrator shall become effective until the Spencer County Fiscal Court has first appropriately approved it.
- (F) 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 KRS 241.100.
- (G) The County ABC Administrator shall have all authority as authorized under KRS 241 through 244. The County ABC Administrator, and the County ABC Administrator's investigators may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
- (H) Should the County ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, LLC or other business organization, has a criminal record, he or she shall have the authority to require such person to appear in person at the Spencer County Sheriff's Office for the purpose of having his or her fingerprints taken. Costs of fingerprinting shall be borne by the County.
- (I) The County ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The County ABC Administrator may require any employee under the County ABC Administrator's supervision to execute a similar bond in such penal sum as the County ABC Administrator deems necessary. The costs of any such bonds shall be borne by the County.

(J) Unless other appeal procedures are set forth herein, appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the County ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the County ABC Administrator shall be governed by KRS Chapter 13B.

(K) When any decision of the County ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the County, and the ABC Board shall have made a decision regarding such appeal or protested application, the County ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, 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 said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

## **APPLICATION FOR LICENSE; MAINTENANCE OF LICENSE**

### **1.14 ADVERTISEMENT.**

(A) 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 Chapter 424 and Chapter 243.

(B) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made. The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing to County ABC Administrator, P.O. Box 397, Taylorsville, Kentucky 40071, within thirty (30) days of the date of legal publication." Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the County.

(C) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

### **1.15 APPLICATION FEE**

A nonrefundable application fee of \$50.00 shall be paid with the filing of the application for a County license. If the license is granted, the application fee shall be credited against the initial license fee.

### **1.16 FORM OF APPLICATION**

(A) All licenses granted under this Ordinance 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 ABC Board and the Spencer County Fiscal Court, as amended and supplemented from time to time.

(B) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the County, including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth and Social Security Number;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Spencer County resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this ordinance;
- (7) Extent of stock or company ownership;
- (8) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.
- (9) If the applicant is a partnership, corporation, limited partnership company, or limited liability company, the name, age, Social Security number, address, and residence of each officer, director, member, partner, and managerial employee and the citizenship of each, and the state under the laws of which the corporate applicant is incorporated or organized. The County may require the names of all the stockholders and the percentage of stock held by each;
- (10) The premises to be licensed, stating the street and number, if the premises has a street number, and otherwise such a description that will reasonably indicate the location of the premises;
- (11) A statement that neither the applicant nor any other person referred to in this section has been convicted of; any misdemeanor directly or indirectly attributable to alcoholic beverages; any violation of KRS 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A. 100, 218A. 110, 218A. 120, or 218A.130 within the two (2) years immediately preceding the application; any felony, within five (5) years from the later of the date of parole or the date of conviction; or providing false information to the department preceding the application; and that the applicant or any other person referred to in this section has not had any license that has been issued to him under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application; and
- (12) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages.
- (13) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the County ABC Administrator within ten (10) days after the change.



(14) In giving any notice or taking any action in reference to a license, the County ABC Administrator may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in the application or supplemental statement shall be deemed material in any prosecution for perjury.

(C) Each application shall be accompanied by a certified check, cash or a postal or express money order for the amount of the license fee, less the \$50.00 application fee.

(D) 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. The Spencer County Fiscal Court has adopted a statement of guidelines and priorities for the issuance of licenses and, in order to determine the extent to which applications may further or impede the objectives of those guidelines, the Spencer County Fiscal Court may, by order, adopt a questionnaire to be submitted to applicants for licenses. Upon adoption of the questionnaire, it shall become a part of the application process. The initial questionnaire adopted by the Spencer County Fiscal Court is a part of this Ordinance and is incorporated in the ordinance codified herein as Exhibit 4.4.3 A. The questionnaire may be altered, expanded, supplemented or replaced by order of the Spencer County Fiscal Court hereafter. In addition to the information contained in the application and any County-ordered questionnaire, the County ABC Administrator may require such other information as the County ABC Administrator may in his/her discretion deem desirable, reasonable or appropriate to the consideration of the application.

#### **1.17 OTHER CONDITIONS,**

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

(A) The County ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his place of business shall have been approved by the Spencer County Building Inspector and any and all other inspections as may required by the Kentucky Building Code or the state fire code.

(B) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the County ABC Administrator; and

(C) 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, bills, or fees due the County. Further, if a licensee becomes delinquent in the payment of any taxes, bills, or any fees due the County at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

(D) No person, whether an 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 his or her 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 section is not intended to stifle expressions of opinion; however, it is intended

to make clear that the County and State 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 section. This section shall not 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.

#### **1.18 FORM OF LICENSE**

All County licenses shall be in such form as may be prescribed by the Spencer County Fiscal Court and shall contain:

- (A) The name and address of the licensee;
- (B) The number of the license;
- (C) The type of license;
- (D) A description by street and number, or otherwise, of the licensed premises;
- (E) The name and address of the owner of the building in which the licensed premises are located;
- (F) The expiration date of the license;
- (G) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.
- (H) Each kind of license shall be printed so as to be readily distinguishable from the other kinds.

#### **1.19 CHANGE OF INFORMATION**

(A) If after a license to individuals or to a sole proprietor has been issued, 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 within ten (10) days of the change.

(B) Since licenses issued by the County may be 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.

(1) 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 (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(2) The following information will be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:

- (a) Name and address;
- (b) Nature of interest;
- (c) Whether or not a citizen of the United States;
- (d) Date of birth and Social Security Number;
- (e) Date residence was established in Kentucky, if a resident of Kentucky. If a Spencer County resident, indicate when residence was established;
- (f) Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
- (g) Extent of stock or company ownership;
- (h) Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(3) This information shall be filed with the County ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

#### **1.20 RENEWAL OF LICENSE**

(A) Every year 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 for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the County ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the County ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

(B) The renewal by the County ABC Administrator 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.

### **1.21 LOST OR DESTROYED LICENSE.**

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the County ABC Administrator after the County ABC Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of ten dollars (\$10.00) for the duplicate license.

### **1.22 REVOCATION OR SUSPENSION.**

(A) Any license may be revoked or suspended by the County ABC Administrator if the licensee shall have violated any of the provisions of KRS Chapters 241, 242, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages 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 now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the County heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 242, 243 and 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 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, including, but not limited to, acts of moral turpitude.

(B) 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.

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

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) 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, 242, 243 or 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 misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of any felony of any type.

(4) 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 Department of Revenue made in pursuance thereof.

(5) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting 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.

**1.23 PROCEEDINGS FOR REVOCATION OR SUSPENSION OF LICENSE: NOTICE AND OPPORTUNITY TO CONTEST: APPEAL: EFFECT OF REVOCATION OR SUSPENSION.**

(A) Upon the verified complaint of any person, or on the initiative of any certified peace 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 certified or registered 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. Failure of the licensee to attend the date of the hearing, unless good cause is shown or a continuance is granted, shall conclude the matter.

(B) The hearing shall be conducted before the Spencer County Fiscal Court and shall be informal. The licensee may present evidence and the Spencer County Judge Executive is authorized to swear witnesses. Counsel for the licensee is permitted to attend. In conducting the hearing, the Spencer County Fiscal Court shall be limited to determining whether or not the County ABC Administrator abused his or her discretion in deciding upon the action to be taken. The Spencer County Fiscal Court may affirm, modify, or reverse the action taken by the County ABC Administrator, at which time the licensee may seek further appeal under KRS 243.550.

(C) 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 license to the County ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Spencer County Sheriff or a deputy thereof, at the request of the County ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the County ABC Administrator.

(D) 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 stock of alcoholic beverages to an appropriate entity.

(E) Appeal from the decision of the Spencer County Fiscal Court affirming the County ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

(F) If a license is revoked or suspended by an order of the County ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering

revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

#### **1.24 TRANSFER OR ASSIGNMENT.**

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the County ABC Administrator and not then until a payment of one hundred dollars (\$100.00) shall be made to the County.

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity often percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the County ABC Administrator in the exercise of his sound discretion. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the County ABC Administrator. The County ABC Administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the County ABC Administrator.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information from the transferee as is required for a new applicant for license.

(7) The notice and publication requirements for a proposed transfer shall be the same as those set forth in Section 10.024.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the County ABC Administrator.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the County for any unpaid license fees or license regulatory fees under this Ordinance.

**1.25 REFUSAL OF LICENSE; GUIDELINES FOR APPROVAL OF QUOTA LICENSES.**

(A) The County ABC Administrator may refuse to issue or renew a license for any of the following reasons:

(1) Causes for refusal to issue or renew a license and for suspension or revocation of a County license shall be the 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 alcohol beverage licensing, sales or the administration thereof;

(2) If the applicant has done any act for which a revocation of license would be authorized; or

(3) If the applicant has made any false material statement in his or her application.

(B) In the case of quota licenses, before approving an application, the County ABC Administrator is hereby directed to consider, in addition to the factors set out in KRS 243.450, 243.490 and 243.500, and any other factors the County ABC Administrator determines in his or her discretion to be reasonable and pertinent to the license application, the following criteria:

(1) Ownership: The Spencer County Fiscal Court places great value on business owners who are invested in the community.

(2) Economic impact: The Spencer County Fiscal Court desires businesses which make the most positive impact on the community, in number of jobs, payroll, property investment and revenues to the County.

(3) Site of business: The Spencer County Fiscal Court is interested in serving all geographic areas of the County. Therefore, the County does not wish to cluster all licensed ABC outlets in one area.

(4) Aesthetics: The Spencer County Fiscal Court is committed to protecting the character and beauty of our community.

(5) Capital: The Spencer County Fiscal Court values businesses that demonstrate their ability to financially support and sustain their viability. Financial capability of the proposed proprietor is important.

(6) Public support of licensed business in the area: The Spencer County Fiscal Court intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the County.

(C) An applicant who has been refused a license by the County ABC Administrator may appeal the refusal to the ABC Board pursuant to KR 241.200.

#### **1.26 REVIEW OF LICENSE; BOOKS, RECORDS AND REPORTS.**

(A) Applicants to whom a license is issued pursuant to this Ordinance shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The County shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the County ABC Administrator may at any time come upon the premises of any licensee and examine the books, audio and visual recordings and records to determine whether the licensee is in compliance with all parts of this Ordinance. Licensee shall be required to maintain all available video/audio recordings for a minimum of 30 days. 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 or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the County ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

(B) (1) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records, including audio and video recordings, of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Licensee shall be required to maintain all video/audio recordings for a minimum of 30 days. Such books and records shall be available at all reasonable times for inspection by the County ABC Administrator and such County employees who may assist the County ABC Administrator in his or her review.

(2) For the purpose of assisting the County ABC Administrator in enforcement of this Ordinance, 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.

#### **1.27 DORMANCY.**

(A) 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. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.



(B) Any license under which no or substantially no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in section (D) below are proved to the satisfaction of the County ABC Administrator, the license shall be surrendered to the County ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the County ABC Administrator.

(C) For purposes of the preceding section, "no or substantially no business" means that there were either no alcohol transactions during the ninety (90) day period in question, or by using comparable data, the County ABC Administrator determines in his or her discretion that the license is being underutilized to a significant degree. Comparable data available to the County ABC Administrator may include, but not be limited to, sales data from comparable businesses and past sales data of the licensee in question.

(D) The provisions of section (B) of this section shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the County ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the County ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there within twelve (12) months from the date of notice to the County ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the County ABC Administrator deems appropriate in exercise of his or her sound discretion. The provisions of section (B) of this section shall also not apply to licensees whose business operations are "seasonal" and who may experience extreme downturns in revenue during certain calendar periods such that it is not economically feasible to remain open.

## **MISCELLANEOUS PROVISIONS**

### **1.28 HOURS FOR SALE AND DELIVERY.**

(A) Unless otherwise set forth specifically herein, a licensee for distilled spirits, wine or malt beverages by the drink shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink between the hours of 6:00 a.m. until 12:00 (midnight) on Mondays through Saturdays. Sunday sales by the drink shall only be permitted between the hours of 1:00 p.m. until 12:00 (midnight). Notwithstanding the foregoing, sales by the drink on December 31<sup>ST</sup>, regardless of the day of the week upon which it might fall, may continue until 1:00 a.m. on January 1<sup>ST</sup>.

(B) Retail package distilled spirits and wine sales and package malt beverage sales shall be permitted from 6:00 a.m. until 12:00 (midnight), Monday thru Thursday. Sunday, retail package distilled spirits and wine sales and package malt beverage sales shall be permitted from 1:00 p.m. until 12:00 (midnight). If any establishment remains open after midnight, all coolers containing alcoholic beverages must be locked. All distilled spirits and wines not kept in coolers must be locked up. Any displays of malt beverages must have a sign with lettering not less than two inches in heights reading "NO SALES AFTER MIDNIGHT ". This sign must be atop every display and in cases where establishments have aisles of malt beverages, a larger sign, with letters not less than four inches in height, must be placed at the entrance and exit of each aisle.

(C) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during non-permitted hours for sale and delivery. A licensee shall not permit the consumption of alcoholic beverages on the licenses premises past 12:00 (midnight).

(D) Alcohol sales at golf courses.

Golf courses located within the County that have a golf course alcohol beverage control license shall be allowed to sell distilled spirits, wine, or malt beverages by the drink between the hours of 6:00 a.m. until 12:00 (midnight) on Mondays through Saturdays. Sunday sales by the drink shall only be permitted between the hours of 1:00 p.m. until 12:00 (midnight). Notwithstanding the foregoing, sales by the drink on December 31<sup>st</sup> regardless of the day of the week upon which it might fall, may continue until 1:00 a.m. on January 1<sup>st</sup>.

#### **1.29 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.**

(A) 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.

(B) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus (including an application on a mobile device) on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency. In addition to other penalties provided for the violation of this section, any certified peace officer or the County ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(C) The licensee shall be responsible for maintaining security on his 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.

(D) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind 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 alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.

(E) 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) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all identifications to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

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

Persons under the age of twenty-one (21) are subject to criminal prosecution 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.

(H) The licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(I) The licensee 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 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. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(J) No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. No retail licensee shall sell to a purchaser for any consideration except for cash at time of purchase.

(K) No licensee shall knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two (2) years;
- (2) 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;
- (3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute;
- (4) Within two (2) years prior to the date of his or her employment, has had any County license under this Ordinance revoked for cause.

(L) Licensees shall be prohibited from offering reduced price drink specials (e.g discounts, two-for-one, happy hours) from 6:00 p.m. to closing.

(M) 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 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.

(N) No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

(O) Retail premises shall not be disorderly.

(1) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.

(2) Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance or alarm or create a risk through:

- (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;
- (b) Making unreasonable noise;
- (c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire hazard or other emergency;
- (d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;

- (e) Creating a public nuisance which is further defined by KRS 241.010(39);
- (f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
- (g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or local government, or by state administrative regulations, for the licensed premises.

(P) Ideally, no license for quota retail package sales should be issued where the proposed situs of the business is or will be located within five hundred (500) feet of a church, school, or daycare facility, as measured by a straight line from the closest walls of the respective structures. For purposes of this section, "church" shall mean (in addition to its ordinary meaning) a nonresidential structure and premises where religious services are conducted on a regular and continuing basis. "School" shall mean (in addition to its ordinary meaning) a non-residential structure and premises where ten (10) or more students regularly gather for educational purposes. "School" shall not include a vocational training center intended for adults over the age of 18. "Daycare facility" shall mean (in addition to its ordinary meaning) a non-residential structure and premises where ten (10) or more children are cared for during normal daytime working hours while the parents or guardians are at work or are otherwise engaged. Similarly, no license for quota retail package sales should be issued where such a store would materially alter the character of a predominantly residential neighborhood.

(Q) Notwithstanding the foregoing section (P) immediately above, the Spencer County Fiscal Court realizes that a variety of factors might make the five hundred (500) feet barrier inequitable in a particular case and that a certain degree of discretion is necessary when determining the propriety of a proposed situs for a quota retail package store. Among any other relevant factors to consider, in determining whether to issue a quota retail package license where the proposed situs would be located within five hundred (500) feet of a church, school, or daycare, or where the proposed situs might materially alter the character of a predominantly residential neighborhood, the County ABC Administrator is instructed to consider:

1. Public sentiment in the area and the fairness to all affected parties;
2. Number of other alcohol licensees in the area;
3. Potential for future growth;
4. Type of area involved, and whether a quota retail package store would detrimentally affect the character of the neighboring properties and/or the property values;
5. Type of transportation available;
6. Financial potential of the area;
7. Whether or not there exists any natural or artificial sight barriers (trees, treelines, hills, other buildings, extensive shrubbery, etc.) in the area which would provide an adequate visual and/or sound buffer between the situs of the proposed quota retail package store and the church, school, or daycare facility in question.

Any aggrieved party may appeal the decision of the County ABC Administrator to the Spencer County Fiscal Court in accordance with Section 10.033(B).

(R) Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license.

**1.30 POSSESSION BY MINORS PROHIBITED: NO PERSON SHALL AID POSSESSION BY MINORS.**

(A) Except as specifically authorized under KRS 241 through 244, 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, 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. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this section (B) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

(C) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of or use or consume alcoholic beverages. All licensees 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 244.087.

**1.31 CONSUMPTION ON LICENSED PACKAGE PREMISES PROHIBITED: CONGREGATING ON CERTAIN ABC LICENSED PREMISES AND VACANT PREMISES PROHIBITED.**

(A) (1) No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises. A licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

(B) No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(C) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.

(1) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in sections (A) and (B) of this section.

(2) It shall be a defense to any prosecution under section (A) or (B) of this section if such licensed vendor or property owner shall post or permit law enforcement to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

(3) As used in this section, the term:

(a) "HABITUAL" shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(b) "PACKAGE LIQUOR STORE" shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;

(c) "PUBLIC NUISANCE" shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and

(d) "VACANT PROPERTY" shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

### **1.32 MALT BEVERAGE 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 Spencer County who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a control label. The label must have a control number, and the name of the business. Each label must be affixed 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 label;

(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) 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.

(D) 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.

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

(F) The County ABC Administrator is authorized to develop appropriate rules and regulations and to develop and make available keg registration forms.

(G) 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.

(H) It shall be unlawful for any licensee to sell or offer for sale kegs without the identification labels attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification label or to fail to have the declaration form visible and readily accessible from the location of the keg.

### **1.33 ENFORCEMENT.**

All certified peace officers and the County ABC Administrator are authorized to enforce this Ordinance for alleged violations.

### **1.34 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.**

(A) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a County-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the County, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The County will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this Ordinance.

(B) All persons required to complete training under section (A) of this section shall complete that training within thirty (30) days of the date on which the person first becomes subject to the



training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

(C) 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 hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty.

(D) All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the County not less than once every three years thereafter.

### **1.35 SIGNS AND ADVERTISING.**

(A) No sign, banner, poster or other type of display advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than 2 1/2 inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for any person holding any license under this chapter to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this chapter shall be in compliance with this chapter, KRS 244.130, and any regulation promulgated pursuant to KRS 244.130.

(E) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof or "extra strong") or depicting activities that tend to encourage excessive consumption.

### **1.36 PATIO AND OUTDOOR SALES**

(A) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(B) Procedure. Anyone wishing to obtain an outdoor alcoholic beverage license must first have obtained a liquor by the drink license issued by the County ABC Administrator shall be done in conjunction with applying for a liquor by the drink license.

(1) Application for an outdoor alcoholic beverage license shall be made to the County ABC Administrator.

(2) If a restaurant has obtained an outdoor alcoholic beverage license, but moves to a new location or if the outdoor alcoholic beverage area is altered or relocated at the existing premises, the permit shall be automatically terminated and a new application will be required.

(C) Required conditions. The County ABC Administrator may only grant an outdoor alcoholic beverage license if the following conditions are met:

(1) The only entrance and exit to the outdoor alcoholic beverage area shall be through the principal structure. The perimeter of the outdoor alcoholic beverage area shall be clearly defined with decorative walls or fencing at a minimum height of three (3) feet so as to provide control over the operation of the outdoor alcoholic beverage area in conjunction with the landscaping requirements as prescribed in section two (2); otherwise, a solid enclosure at a minimum height of four (4) feet is required. The outdoor alcoholic beverage area is intended to provide separation from pedestrians. Emergency exits shall be required for the outdoor alcoholic beverage area in accordance with any applicable fire codes.

(2) Some combination of evergreen vegetation or landscaping will be required, around the perimeter of the outdoor alcoholic beverage area, to provide partial screening at a minimum height of four (4) feet with plantings spaced on a maximum of a four (4) foot center. These requirements will not be used to reduce or minimize any other screening ordinance in place.

(3) A seating plan must be submitted along with the proposed surface area. The seating plan will be reviewed to provide recommendations. The surface area of the outdoor alcoholic beverage area should generally be a hard surface.

(4) Lighting is required. The lighting shall be of a subdued nature and not imposing to any adjacent property.

(5) All plans are to be reviewed and approved by the County ABC Administrator prior to issuance of an outdoor alcohol beverage license.

(6) Any restaurant not in compliance with this section on the day of its adoption shall have one hundred and twenty (120) days to come in compliance.

(7) The licensee shall at all times ensure that the operation of an outdoor alcoholic beverage area does not unreasonably interfere with the quiet enjoyment of neighboring properties.

(D) Notwithstanding the foregoing requirements which contemplate a completely enclosed outdoor seating area, an application for an outdoor alcoholic beverage license may be approved if the applicant can demonstrate that one or more natural or artificial barriers will provide an adequate means of:

(1) Preventing persons who are under the age of 21 from purchasing or consuming alcoholic beverages;

(2) Preventing persons who did not enter the premises from one of the main entrances from entering the outdoor alcoholic beverage seating area;

(3) Preventing persons from leaving the premises, unless it is an emergency, without exiting through one of the main entrances;

(4) Permitting, at any given time, the licensee to quickly and readily provide a reasonably accurate head count of the number of patrons in the outdoor alcoholic beverage seating area.

(E) Absent a showing that all of the conditions in section (D) above can be satisfied, the County ABC Administrator shall require the outdoor alcoholic beverage seating area to be completely enclosed on all sides.

### **1.37 CONFLICTS, SEVERABILITY, RECORD OF PROCEEDINGS AND APPEAL**

(A) If any of the provisions of this Ordinance are found to be in conflict with applicable statutes or regulations, the applicable statutes and/or regulations shall control.

(B) The invalidity of one or more provisions of this Ordinance shall not affect the applicability or enforceability of the remaining provisions.

(C) Upon exhaustion of administrative measures, any party aggrieved may seek appropriate relief in a court of competent jurisdiction.

(D) Any hearing conducted pursuant to this Ordinance, whether by the County ABC Administrator or the Spencer County Fiscal Court, shall be recorded to preserve all evidence.

### **1.38 PENALTIES.**

(A) In addition to any criminal prosecution instituted in Spencer District Court against an alleged violator pursuant to subsection (B) of this provision or under other state law, the County ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this Ordinance shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be made to the County to be deposited in the appropriate designated account. For any violation of this Ordinance for which civil fines under KRS 243.480 are not applicable or appropriate, the County ABC Administrator may impose a fine of between fifty (\$50.00) dollars to one hundred (\$100.00) dollars, per violation, per day. Civil fines issued under this subsection may be appealed to the Spencer County Fiscal Court in the same manner as set out in Section 10.033 of this Ordinance. If the offending licensee is a partnership, LLC, corporation, or any other business entity, the fines may be levied against the organization or against the principal officers or agents responsible for the violation.

(B) Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he or she shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. Each day that an offending condition is present shall constitute a

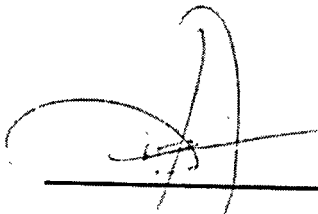
separate offense. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be fined, imprisoned, or both.

**FIRST READING: June 6, 2016**

**SECOND READING: June 20, 2016**

**PUBLICATION: June 8, 2016**

**Passed and effective on this the 21st day of June, 2016.**



**JOHN RILEY, JUDGE-EXECUTIVE SPENCER COUNTY FISCAL COURT**

**ATTEST:**   
**Spencer County Fiscal Court Clerk**

**Spencer County, Kentucky  
Ordinance No. 1  
Fiscal Year 2014 Series**

**ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND  
OTHERWISE PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE  
CONTROL WITHIN SPENCER COUNTY**

**WHEREAS**, a local option election was held on October 20, 2009, pursuant to Kentucky Revised Statutes Chapter 242 to address the issue as to whether the County of Spencer should permit the sale of alcoholic beverages within Spencer County; and

**WHEREAS**, a majority of the citizens of Spencer County voted in favor of the sale of alcoholic beverages in the County of Spencer; and

**WHEREAS**, under applicable state law, Spencer County, may impose certain restrictions and regulations and provide for the establishment and collection of certain fees and fines related to the sale of alcoholic beverages and general commerce related thereto.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE FISCAL COURT OF SPENCER COUNTY, COMMONWEALTH OF KENTUCKY THAT THE ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE CONTROL WITHIN SPENCER COUNTY, SHALL READ AS FOLLOWS:**

**ARTICLE ONE: GENERAL PROVISIONS**

**Section 1.01 TITLE**

This ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of Spencer County, Kentucky, or the "Spencer County Alcoholic Beverage Control Ordinance".

**Section 1.02 INCORPORATION OF STATE LAW; DEFINITIONS; AND COMPLIANCE REQUIRED**

- A. **Definitions.** As used in this Chapter, unless the context clearly indicates a different meaning and specifies the language of a particular definition which shall apply, the words and terms as defined in Kentucky Revised Statute 241.010 (KRS 241.010) shall apply.
- B. The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243, and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Boards, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of Spencer County, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky and "County" means Spencer County, Kentucky.

- C. Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this ordinance.
- D. No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.
- E. All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in Kentucky Revised Statutes Chapter 244 (KRS 244) shall apply to alcoholic beverage use in the County.

### **Section 1.03 SCOPE OF COVERAGE**

- A. This ordinance shall be construed to apply to the trafficking in all forms of "alcoholic beverages" as that term is defined by Kentucky Revised Statute 241.010(2), (KRS 241.010(1)) including malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise expressly states or requires, the term "alcoholic beverage" or "alcoholic beverages" shall have the same meaning as defined by Kentucky Revised Statute 241.010(2) (KRS241.010(2)) and shall include distilled spirits, wine, and malt beverages.
- B. Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in Spencer County where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance of Spencer County or any State and/or Federal statutes or regulations.

### **Section 1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS**

All monies 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.

### **Section 1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED**

This ordinance is and shall be subject to the provisions of Kentucky Revised Statute Chapter 243.600 (KRS 243.600). Spencer County shall give notice to the State Alcoholic Beverage Board of any fees or assessments fixed and/or levied under the provisions of this ordinance.

## **ARTICLE TWO: ADMINISTRATION**

### **Section 2.01 ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

Pursuant to Kentucky Revised Statute 241.110 (KRS 241.110), the duties of the Spencer County Beverage Control Administrator ("County ABC Administrator") as hereinafter established in this ordinance shall be assigned to the office of the County Judge Executive ("Judge"). The Judge shall have the power and authority to designate and appoint individuals as Deputy Alcoholic Beverage Control Administrators ("Deputy ABC Administrators"), to assist in the responsibilities of the

office of the County ABC Administrator. The County ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter, pursuant to Kentucky Revised Statutes 241.140 and 241.060 (KRS 241.140 and KRS 241.060).

#### **Section 2.02 FUNCTIONS, DUTIES AND POWERS**

- A. The functions of the County ABC Administrator shall be the same with respect to the County's alcohol licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State Board") with respect to State alcohol licenses and regulations, as provided in Kentucky Revised Statute 241.140, except that no regulations of the County ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control or the regulations of the State Board. No regulation of the County ABC Administrator shall become effective until it has been appropriately approved by Spencer County Fiscal Court.
- B. The County ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the County as the State Board has with respect to alcohol licenses issued by the State under Kentucky Revised Statutes 241.110 and 241.140 (KRS 241.110 and KRS 241.140).

#### **Section 2.03 RIGHT OF INSPECTION**

The County ABC Administrator, his designees/appointees and/or Spencer County 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 Kentucky Revised Statute 244.150 (KRS 244.150) and all other applicable State laws and regulations. Further, the Spencer County ABC Administrator shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

#### **Section 2.04 APPEAL FROM COUNTY ABC ADMINISTRATOR**

Appeals from any order of the County ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board within thirty (30) days a certified copy of the order of the County ABC Administrator from which the appeal is taken. Matters at issue shall be heard by the Board as upon an original proceeding, and the appeal shall be governed in accordance with KRS 241.150, KRS 243.550 and all other applicable State law.

#### **Section 2.05 OATH AND BOND OF LOCAL ABC ADMINISTRATOR EMPLOYEES**

- A. Each County ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth of Kentucky, and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000.)
- B. Each County ABC Administrator may require any County employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- C. The cost of bonds given under this section shall be borne by the County, in accordance with Kentucky Revised Statute 241.110 (KRS 241.110).

## **ARTICLE THREE: LICENSING REGULATIONS**

### **Section 3.01 NUMBER AND TYPE OF LICENSES**

The number and type of license for the manufacturing and/or trafficking in alcoholic beverages issued in the County shall not exceed the number and type of license as provided for and established under Kentucky Revised Statutes and all Kentucky Administrative Regulations promulgated pursuant thereto, as may be amended from time to time.

### **Section 3.02 LICENSE REQUIRED FOR SALE**

No person shall, within the County, sell or dispense at retail or have in his possession for sale, nor manufacture or transport within the County for sale, any alcoholic beverages unless he shall first procure and have issued to him the appropriate license issued under the provisions of this ordinance, all State statutes and all administrative regulations adopted pursuant thereto. Any revocation, suspension, non-renewal or other action which obviates any license for the sale of alcoholic beverages issued by the State shall also operate to invalidate and make null and void the corresponding license issued pursuant to this ordinance.

### **Section 3.03 TYPE OF LICENSES; FEES**

#### **A. With respect to restaurant wine licenses:**

Bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons.

The term "restaurant" as used in this section shall have the same meaning as currently provided at Kentucky Revised Statutes Chapter 241 (KRS 241), to-wit: "a facility where the usual and customary business is the serving of meals to customers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food".

#### **B. Types of Retail Licenses.**

The County shall have the power and authority to issue the following types of licenses for the sale and trafficking in distilled spirits, wine, malt beverages, or retail drinks, upon proper application and payment of the below prescribed annual fees. All license fees indicated are on a per annum basis, unless otherwise expressly indicated.

##### **a. Types of Retail License Defined:**

1. **Retail Package License (distilled spirits and wine):** This license shall authorize the retail sale of distilled spirits and wine for consumption other than on the licensed premises.
2. **Restaurant Wine License:** This license shall authorize the retail sale of wine for consumption on the licensed premises in accordance with the restrictions set forth in this section.



3. **Malt Beverage License On Site:** This license shall authorize the retail sale of malt beverages for consumption on the licensed premises in accordance with the restrictions set forth in this section.
  4. **Malt Beverage License Off Site:** This license shall authorize the retail sale of malt beverages for consumption off the licensed premises in accordance with the restrictions set forth in this section.
  5. **Retail Drink License, Motel Drink License, Restaurant Drink License, or Supplemental Bar License:** This license shall authorize the retail sale of alcoholic drinks for consumption on the licensed premises in accordance with the restrictions set forth in this section.
  6. **Other special licenses** as the state board finds to be necessary for the administration of Kentucky Revised Statutes Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.
- b. License Fees: The license fees for any retail package licenses, restaurant wine licenses, malt beverage license, or retail drink licenses shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

C. Types of Special Temporary Licenses.

- a. The County shall have the power and authority to issue special temporary licenses, upon proper application and payment of the below prescribed fees. This license shall authorize the retail sale and consumption of distilled spirits, wine, and malt beverages on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events, or other approved public events.
- b. **License Fees:** The license fees for any special temporary license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

D. Special Private Club License for Beer Only: Fee Required.

- a. The County shall have the power and authority to issue a special private club license to any nonprofit social, fraternal, military or political organization or club which maintains or operates designated premises from which the general public is excluded. All restrictions and prohibitions otherwise applying to a malt beverage licensee shall apply to a special private club licensee.
- b. In order to assure that the general public is excluded from the designated premises of a private club license holder, the following guidelines must be met:
  1. Each private club member shall be issued a membership card which can be readily produced while visiting said club;

2. Each private club member shall be limited to no more than two (2) non-member guests at any club function or event; and
  3. A written log shall be maintained of all non-member guests.
- c. The fees for this category of license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

E. Caterer's License; Fees.

- a. As used in this section, unless the context requires and expressly states otherwise the term "caterer" means a corporation, partnership or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.
- b. The County ABC Administrator shall have the power and authority to issue a caterer's license for the sale of alcoholic beverages upon proper application and payment of the prescribed fees. A caterer's license of the sale of alcoholic beverages may be issued as a supplementary license to a caterer that also holds a retail package license (distilled spirits and wine) or a hotel/motel/inn or restaurant retail drink license.
- c. The caterer's license shall authorize the caterer to:
  1. Purchase and store alcoholic beverages in the manner prescribed in Kentucky Revised Statutes Chapter 243 (KRS 243).
  2. Transport, sell, serve and deliver alcoholic beverages by the drink at locations in wet territory away from the licensed premises in conjunction with the catering of food and beverages for a customer and/or his guests. Wine may also be transported, sold, served, or delivered.
  3. Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and
  4. Receive payment for alcoholic beverages served at a function on a by-the-drink or by-the-function basis. A caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- d. The caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverages licenses or special temporary licenses have been issued.
- e. The caterer licensee shall post a copy of the caterer's license at the location of the function for which alcoholic beverages are catered.
- f. The name and license number of the caterer shall be painted, in a contrasting color, in a form prescribed by the Kentucky Administrative Regulations, upon all vehicles used by the caterer to transport alcoholic beverages.

- g. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section shall apply to the caterer licensee.
- h. The caterer licensee shall submit a list of functions catered or to be catered, including location, host, date, and time upon request of the local ABC Administrator.
- i. The fee for the caterer's license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

#### **Section 3.04 LICENSES PERMITTED**

In accordance with Kentucky Revised Statute 242.125 (KRS 242.125), Spencer County shall have the power and authority to issue any license for the manufacturing, trafficking, and sale of alcoholic beverages permitted by Kentucky Revised Statute 243.060 (KRS 243.060), or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of applicable State statutes and regulations and/or county ordinances.

#### **Section 3.05 REGULATIONS TO CONFORM TO STATE LAW**

All regulations which may be issued to administer Kentucky Revised Statute 242.125 (KRS 242.125), this section of the Spencer County Alcoholic Beverage Control Ordinance, and/or any other provisions of State law or county ordinance shall conform to the requirements of Kentucky Revised Statute 241.140 (KRS 241.140).

#### **Section 3.06 LICENSE TERM; RENEWALS; AND WHEN LICENSE FEE DUE**

- A. All required fees, as indicated above, for any form of alcoholic beverage license shall be due upon submission of any original application or application for renewal. The license applicant shall submit all required fees along with the application forms required for issuance of any alcoholic beverage license under this chapter. The required fee shall be paid by cash, certified check, or postal or express money order.
- B. All fees required to be paid upon submission of any original application or application for renewal of alcoholic beverage license under this ordinance shall be held on deposit by the County pending State license approval and issuance of the required State license. In the event that any requested State license is not issued for any reason, the applicant must submit a written request for a refund of all license fees paid in relation to the requested licenses not issued. The applicant's written request for refund must be submitted to the County ABC Administrator. Upon proper written request, the County will refund the license fees submitted by the applicant for any license(s) not issued, but the County will retain Fifty Dollars (\$50) per license fee paid for processing costs. In the event that any license fee submitted is Fifty Dollars (\$50) or less, there will be no refund from the County as the entire amount will be retained for processing costs.
- C. All alcoholic beverage licenses issued under this chapter shall expire on January 31 of each year, and all renewal applications and license renewal fees shall be due and payable on February 1 of each year.

### **Section 3.07 PRO-RATED LICENSE FEE**

When any applicant makes application for a new license authorized to be issued under this chapter, he 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 and one-half (½) the fee if less than six months remain before the license is due to be renewed. No abatement of license fee shall be permitted to any person who held a license of the same kind for the same premises in the preceding period and who was actually doing business under the license during the last month of the preceding license period.

### **Section 3.08 REFUNDS PROHIBITED**

In the event any licensee shall cease doing business for any reason, no refund of any license fee required hereunder shall be granted.

### **Section 3.09 ASSIGNMENT, TRANSFER OR LICENSE REPLACEMENT**

- A. The assignment, transfer or other form of acquisition of an interest in an alcoholic beverage license of whatsoever nature shall be governed by the provisions of Kentucky Revised Statutes 243.630, 243.640, 243.650, 243.660 and all other applicable State law. An approval by the State Alcoholic Beverage Control Board of any proposed assignment, transfer or other acquisition of interest in a duly issued alcoholic beverage license shall be deemed an approval by the County and non-approval by the State shall be deemed as non-approval by the County. No County alcoholic beverage license may be sold, assigned or otherwise transferred unless the proposed transfer has first been approved by the State Alcoholic Beverage Control Board pursuant to applicable state law. A transfer fee of \$25 shall be paid to the County upon any permitted assignment or transfer of an alcoholic beverage license.
- B. In the event that an alcoholic beverage license has been lost or destroyed, the local ABC Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.

### **Section 3.10 POSTING OF LICENSE**

Each license issued by the County pursuant to this chapter shall be posted at the licensed premises in the same manner as prescribed by Kentucky Revised Statute 243.620 (KRS 243.620) for State licenses. An exact duplicate or facsimile of each license issued by the County under this chapter shall remain in the local ABC Administrator's office as part of the public record.

### **Section 3.11 WHOLESALE DISTRIBUTORS**

Every wholesale distributor of alcoholic beverages who sells or conducts business with Spencer County shall report to the County ABC Administrator on a form to be provided by the County, the following information:

1. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter; and
2. The net revenues received by the wholesaler or distributor from each retailer.

## **ARTICLE FOUR: APPLICATION PROCESS AND ISSUANCE OF LICENSES**

### **Section 4.01 APPLICATION FOR STATE LICENSE**

All applicants for alcoholic beverage licenses available pursuant to this ordinance must submit the appropriate application for issuance of a State license as stipulated in Kentucky Revised Statute 243.380 (KRS 243.380) and all other application State law.

### **Section 4.02 LOCAL ADMINISTRATOR TO APPROVE APPLICATION**

Pursuant to applicable State law, an applicant for an alcoholic beverage license must first have his State license approved by the County Alcoholic Beverage Control Administrator before the applicant is eligible to apply for a State license. An applicant for a license under this chapter shall file with the County Alcoholic Beverage Control Administrator a copy of the State license application as required by the State, along with any County license application that may be required. The County license application shall be in a form prescribed by the County ABC Administrator and the application form shall be made available to interested applicants through the County Judge Executive's Office. The county license application shall be properly subscribed and sworn to before a notary public or other officer authorized to administer an oath and shall include an identification of the premises where alcoholic beverages are to be sold, either by way of the street number or otherwise, along with the name of the owner of the premises, and shall be accompanied by a certified copy of the deed or lease agreement through which the applicant holds possessory interest in the premises, in addition to any other information required on the application form as may be prescribed by the County ABC Administrator. In the event that the applicant is a corporation or a limited liability company, the applicant shall provide personal information as may be required on the application form (by way of example, name, age, date of birth, Social Security number, address, etc.) for each shareholder, officer and/or director of the corporation and/or member of the limited liability company, whichever applies.

### **Section 4.03 APPLICANT'S CONSENT TO INSPECTION, SEARCH AND REGULATORY ACTION**

The County license application shall include the acknowledged consent of each and every applicant to permit the County ABC Administrator and his designees to inspect and search the licensed premises at any reasonable time.

### **Section 4.04 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE, OR SUSPENSION OR REVOCATION OF LICENSE**

- A. **STATE LAW REFERENCES:** Causes for refusal to issue or renew a County license or for suspension or revocation of a County license shall be the same as provided for State license pursuant to Kentucky Revised Statutes 243.450, 243.490, and 243.500.
- B. **VIOLATION OF COUNTY ORDINANCE:** In addition to the above State law references, violation of any County ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall be grounds for refusal to issue or renew a license or suspension or revocation of a license.

- C. DELINQUENT TAXES OR FEES: No license for the sale or trafficking of alcoholic beverages shall be granted or renewed to any person or entity that is delinquent in the payment of any taxes or fees due the County at the time of application for the license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property, owned and/or occupied by the licensee, for which there are any delinquent taxes or fees due the County. If the licensee becomes delinquent in the payment of any taxes due to the County at anytime during a license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The County ABC Administrator may, in his discretion, approve a license to sell alcoholic beverages after receiving from the Spencer County Attorney a written statement to the effect that the applicant for a license has paid or has made satisfactory arrangements with the Spencer County Attorney to pay any indebtedness represented by the unpaid and delinquent taxes or fees.
- D. APPEALS: Appeals may be taken from any decision of the County ABC Administrator to the State Alcoholic Beverage Control Board, pursuant to the provisions of Kentucky Revised Statutes 241.150 and 243.550, and all other applicable State law.

#### **Section 4.05 APPROVAL OR DENIAL OF APPLICATION OR RENEWAL**

- A. If upon review of the license application, the County ABC Administrator determines that the applicant has complied with all requirements and regulatory provisions of this ordinance and applicable state law, that the premises sought to be licensed meets all requirements of this ordinance and applicable State law and that there are no causes for denial of a license, the County ABC Administrator shall approve that 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 violations 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 any violation set forth in the show cause order issued by the County ABC Administrator. Any decision by the ABC County Administrator on the application shall be subject to appeal as provided under this chapter and applicable State law.

#### **Section 4.06 ISSUANCE OF COUNTY LICENSE**

Upon issuance of a State license, the requested County license shall be issued, subject to the provisions of this ordinance and State law concerning renewal, revocation and/or suspension. No license shall be issued by the clerk without the approval of the County ABC Administrator, which approval shall be granted only after the County receives an exact duplicate or facsimile copy of the State license issued to the applicant. The County license shall be in a form as prescribed by the County ABC Administrator and shall conform with the requirements of Kentucky Revised Statutes Chapter 243 (KRS 243).

#### **Section 4.07 POSTING OF LICENSES**

Each County license issued under this ordinance shall be a licensed premises in the same manner as prescribed by Kentucky Revised Statute 243.620 (KRS 243.620) for State licenses. An exact duplicate or facsimile of each County license issued under this chapter shall remain in the County

Clerk's Office the public record.

**Section 4.08 PERSONS WHO MAY NOT RECEIVE A LICENSE**

**A. PERSON AS APPLICANT:**

1. No License shall be issued under this chapter until after the applicant has been issued the appropriate State license by the Commonwealth of Kentucky.
2. No license shall be issued to any person under 21 years of age.
3. No license shall be issued to any person who is not a citizen of the United States and has not had an actual, bona fide residence in the State for at least one (1) year before the date on which his or her application for a license is made.
4. No License shall be issued to any natural person if he or she:
  - a. Has been convicted of any felony in the five (5) years immediately preceding the date of application. The five years shall be from the date of conviction, released from custody or incarceration, parole or termination of probation, whichever is later;
  - b. Has been convicted of any misdemeanor involving the controlled substances described under Kentucky Revised Statutes Chapter 218A (KRS 218A) in the two (2) years immediately preceding the application;
  - c. Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;
  - d. Has had any license issued under this ordinance relating to the regulation or the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such state statute, until the expiration of two (2) years from the date of the revocation or conviction.

**B. CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY AS APPLICANT**

1. No license shall be issued to a partnership, limited partnership, limited liability company or corporation if:
  - a. Any member of the partnership or limited liability company, or any of the directors, principal officers, shareholders and managers of the corporate entity do not qualify under subsection A of this section;
  - b. If the applicant has had any license issued under this ordinance relating to the regulation of the manufacture, sale or the transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any criminal offense referenced as set forth above in subsection A(4) of this section, until the expiration of two (2) years from the date of the revocation or

conviction; or

- c. If any member of the partnership, limited partnership, limited liability company, or any director, officer, shareholder or manager of the corporate entity has had any license issued under any statutes relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause or has been convicted of any criminal offense referenced as set forth above in subsection A(4) of this section, until expiration of the latter of two (2) years from the date of revocation or two (2) years from the date of conviction.

## **ARTICLE FIVE: PROHIBITIONS, RESTRICTIONS, AND GENERAL REGULATIONS**

### **Section 5.01 HOURS OF SALE**

- A. Premises for which there has been granted a license for the retail sales of alcoholic beverages shall be permitted to sell or offer for sale alcoholic beverages only between the hours of 6:00am and 12:00am each day, except Sunday. It shall be unlawful to sell or offer for sale any alcoholic beverage during the twenty-four (24) hours of each Sunday.
- B. It shall be unlawful to keep open for business or permit the public to remain within, or to permit 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 alcoholic beverages is prohibited; provided, however, that in the case of bona fide restaurants, hotels/motels/inns, convenient stores and grocery stores, such establishments may be kept open for business during such hours when alcoholic beverage sales are prohibited, but no alcoholic beverages may be sold to the public during such hour.

### **Section 5.02 GENERAL REGULATIONS AND RESTRICTIONS**

- A. No gambling or game of chance, unless otherwise authorized by the Commonwealth of Kentucky, shall be permitted in any form on the licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on the premises.
- B. It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Spencer County, as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Sheriff or the County ABC Administrator shall have the authority to confiscate any and all radio receiving apparatus.
- C. 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 premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.



- D. Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- E. No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.
- F. All restaurants and dining shall distribute alcoholic beverages only during times in which their kitchen is open and their food staff is on duty.
- G. It shall be unlawful for any licensee licensed under this chapter to allow the consumption of any alcoholic beverages on their premises; provided however in the case of bona fide restaurants and motels/motels/inns, such establishments may allow the consumption of alcoholic beverages during the hours allowable by law.

#### **Section 5.03 ADVERTISING RESTRICTIONS**

- A. Signage. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) feet by two (2) feet that must be displayed from the inside window or interior of the business. No additional signs, banners, posters or other type of display advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on or be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises menus or other price cards not larger than 11"x14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages.
- B. No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- C. It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- D. Any advertising by any licensee under this chapter shall be in compliance with Kentucky Revised Statute 244.130 (KRS 244.130).

#### **Section 5.04 LICENSE TO BECOME VOID IF BUSINESS DORMANT**

Any license for the sale of alcoholic beverages issued under this chapter shall become null and void in the event that no business is transacted under the license for a period of ninety (90) days. If no business is transacted under any license issued under this chapter during any consecutive 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 4:110, as amended from time to time, to continue such license in dormancy. In the event that a period of dormancy is applied for and granted by the State ABC Administrator, 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 for the

period the license was on dormancy in the same amount due had the license remained active for the same period.

#### **Section 5.05 LICENSEE TO DISPLAY WARNING TO MINORS**

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12"x16" which shall read substantially as follows:

**WARNING TO MINORS: ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) IS SUBJECT TO A FINE OF UP TO ONE HUNDRED DOLLARS (\$100) IF THEY:**

1. Enter licensed premises to buy, or have served to them, alcoholic beverages;
2. Purchase or attempt to buy, or have served to them, alcoholic beverages;
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

#### **Section 5.06 ACCOUNTING REQUIREMENT**

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involving the sale of alcoholic beverages and food in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the County ABC Administrator. Such books and records shall be made available at all reasonable times for inspection by the County ABC Administrator or his appointed designee.

#### **Section 5.07 LICENSEE TO OBTAIN COPY OF ORDINANCE**

- A. Upon timely request by the licensee, the County ABC Administrator shall furnish to each and every licensee a copy of this ordinance at the time the license is issued with signed receipt from the licensee. Any changes or amendments to this ordinance shall be forwarded to each licensee at the address on the license. Failure to receive or review such changes or amendments or review the ordinance shall not be an excuse or justification for any violation, nor shall failure to receive or review any changes or amendments prevent, remit or decrease any penalty for any violation of this ordinance.
- B. It shall be the duty of the licensee under this ordinance to obtain a copy of this ordinance from the County ABC Administrator. Further the cost of obtaining a copy of this ordinance shall be borne by the licensee.

#### **Section 5.08 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING: STANDARDS FOR CERTIFICATION**

- A. All persons, corporation, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the County ABC Administrator. Before

approval is granted, the County ABC Administrator shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The County shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.

- B. All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by Spencer County for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the County ABC Administrator.
- C. Subsections (A) and (B) above shall not apply to any Manufacturer of alcoholic beverages as this term is defined in Kentucky Revised Statute 241.010(34) (KRS 241.010(34)) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.
- D. Standards for Certification: The training person or agency must reasonably instruct upon and certify the participant's competence in at least the following:
  - 1. Pertinent federal, state and local laws related to the sale of alcohol;
  - 2. Verification of age, forms of identification and usual methods of false or misleading age identification;
  - 3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
  - 4. Recognition of the signs of intoxication;
  - 5. Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
  - 6. The licensee's policies and guidelines, including the employee's role in observing those policies; and
  - 7. Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

- E. All persons required to undergo the training set forth in paragraph (A) above shall complete same within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises

until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the County ABC Administrator under the foregoing criteria not less than once every three (3) years.

- F. Personnel Certification Records: Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this ordinance. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the Alcoholic Beverage Control Administrator, all licensees and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

G. Penalties:

1. No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to any one on the licensed premises.
2. Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this ordinance, shall upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.

**ARTICLE SIX: CONDUCT, LOCATION PREMISES AND  
STRUCTURE REQUIREMENTS**

**Section 6.01 CONDUCT REQUIREMENT**

Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

**Section 6.02 ZONING RESTRICTIONS: LOCATION, PREMISES, AND STRUCTURE  
REQUIREMENTS**

- A. No license shall be issued under this ordinance for the sale or trafficking in any alcoholic beverages at any premises or location where such business is prohibited under the County's zoning ordinances or any other ordinances of the County as may be amended or supplemented from time to time, and any license issued in violation of this section shall be null and void.
- B. No license shall be issued under this ordinance unless the premises to be licensed conforms to the sanitary, safety and building code requirements of the County and rules and regulations of the State and Local Board of Health applicable thereto. Further, the County ABC Administrator shall not grant any alcoholic beverage license until the license applicant and the intended

licensed premises have been approved by the State Health Department and County Code Enforcement Officer with respect to all applicable building codes.

- C. Any licensee holding a license which permits the sale and consumption of alcoholic beverages on the premises where sold shall maintain an easily discernible physical barrier between the general dining area and any bar area. The separate bar areas shall be posted "Persons under Twenty One (21) years of age may not enter or remain in this area".
- D. Any licensee holding a license which will be conducting sales through a drive-thru window shall not locate that window in the rear of the premises. The drive-thru window must be located in plain sight on either side of the premises or the front of the premises.

### **ARTICLE SEVEN: PENALTY FOR VIOLATIONS**

#### **Section 7.01 PENALTY FOR VIOLATIONS**

- A. Any person who violates any provision of this ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
  - 1. For the first offense, a fine not to exceed Five Hundred Dollars (\$500.00); and
  - 2. For any subsequent offense, a fine not to exceed Five Hundred Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
- B. In addition to any other penalty provided for herein or as provided under any other applicable federal, state, or local law or regulation, any licensee violating any provision of this ordinance shall be subject to suspension or revocation of any and all licenses issued under this chapter.

### **ARTICLE EIGHT: OTHER PROVISIONS**

#### **Section 8.01 PRIOR ORDINANCES REPEALED**

Any and all previous ordinances regulating the sale of or providing provisions regarding alcoholic beverages in Spencer County are hereby repealed.

#### **Section 8.02 SEVERABILITY**

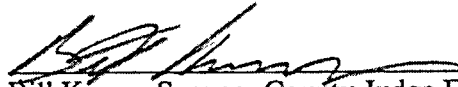
Any section or subsection of this ordinance determined by a Court of law to be unlawful shall not affect the validity of the remaining sections or subsections of this ordinance.

#### **Section 8.03 EFFECTIVE DATE**

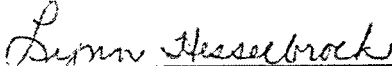
This ordinance shall be in full effect immediately upon approval and passage by the Fiscal Court of Spencer County, Commonwealth of Kentucky.

Given first reading and approved on this 1<sup>st</sup> day of July, 2013.

Given second reading and adopted on this 5<sup>th</sup> day of August, 2013.

  
Bill Karrer, Spencer County Judge Executive

Attest:

  
Lynn Hesselbrock, Spencer Fiscal Court Clerk

Spencer Co.

2009 DEC 10 A 9:12

COMMONWEALTH OF KENTUCKY  
SPENCER COUNTY FISCAL COURT  
ORDINANCE NO. 10, SERIES 2010

ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE  
PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE CONTROL WITHIN SPENCER  
COUNTY

WHEREAS, a local option election was held on October 20, 2009, pursuant to KRS Chapter 242 to address the issue as to whether the County of Spencer should permit the sale of alcoholic beverages within Spencer County; and

WHEREAS, a majority of the citizens of Spencer County voted in favor of the sale of alcoholic beverages in the County of Spencer; and

WHEREAS, under applicable state law, Spencer County, may impose certain restrictions and regulations and provide for the establishment and collection of certain fees and fines related to the sale of alcoholic beverages and general commerce related thereto.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY SPENCER COUNTY, KENTUCKY, THAT THE ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE CONTROL WITHIN SPENCER COUNTY, SHALL READ AS FOLLOWS:

ARTICLE ONE: GENERAL PROVISIONS

Section 1.01 TITLE

This ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of Spencer County, Kentucky, or the "Spencer County Alcoholic Beverage Control Ordinance".

Section 1.02 INCORPORATION OF STATE LAW; DEFINITIONS; AND COMPLIANCE REQUIRED

- A. Definitions. As used in this Chapter, unless the context clearly indicates a different meaning and specifies the language of a particular definition which shall apply, the words and terms as defined in Kentucky Revised Statute 241.010 (KRS 241.010) shall apply.
- B. The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243, and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Boards, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of Spencer County, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky and "County" means Spencer County, Kentucky.

- C. Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this ordinance.
- D. No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.
- E. All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the County.

### **Section 1.03 SCOPE OF COVERAGE**

- A. This ordinance shall be construed to apply to the trafficking in all forms of "alcoholic beverages" as that term is defined by KRS 241.010(2), including malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise expressly states or requires, the term "alcoholic beverage" or "alcoholic beverages" shall have the same meaning as defined by KRS 241.010(2) and shall include distilled spirits, wine, and malt beverages.
- B. Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in Spencer County where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of Spencer County or any State and/or Federal statutes or regulations.

### **Section 1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS**

All monies 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.

### **Section 1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED**

This ordinance is and shall be subject to the provisions of KRS 243.600. Spencer County shall give notice to the State Alcoholic Beverage Board of any fees or assessments fixed and/or levied under the provisions of this ordinance.

## **ARTICLE TWO: ADMINISTRATION**

### **Section 2.01 ALCOHOL BEVERAGE CONTROL ADMINISTRATOR**

Pursuant to KRS 241.110, the duties of the Spencer County Beverage Control Administrator ("County ABC Administrator") as hereinafter established in this ordinance shall be assigned to the office of the County Judge Executive ("Judge"). The Judge shall have the power and authority to designate and appoint individuals as Deputy Alcoholic Beverage Control Administrators ("Deputy ABC Administrators"), to assist in the responsibilities of the office of



the County ABC Administrator. The County ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter, pursuant to KRS 241.190 and KRS 241.060.

#### **Section 2.02 FUNCTIONS, DUTIES AND POWERS**

- A. The functions of the County ABC Administrator shall be the same with respect to the County's alcohol licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State Board") with respect to State alcohol licenses and regulations, as provided in KRS 241.140, except that no regulations of the County ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control or the regulations of the State Board. No regulation of the County ABC Administrator shall become effective until it has been appropriately approved by Spencer County Fiscal Court.
- B. The County ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the County as the State Board has with respect to alcohol licenses issued by the State under KRS 241.110 and KRS 241.140.

#### **Section 2.03 RIGHT OF INSPECTION**

The County ABC Administrator, his designees/appointees and/or Spencer County 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 KRS 244.150 and all other applicable State laws and regulations. Further, the Spencer County ABC Administrator shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

#### **Section 2.04 APPEALS FROM COUNTY ABC ADMINISTRATOR**

Appeals from any order of the County ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board within thirty (30) days a certified copy of the order of the County ABC Administrator from which the appeal is taken. Matters at issue shall be heard by the Board as upon an original proceeding, and the appeal shall be governed in accordance with KRS 241.150, KRS 243.550 and all other applicable State law.

#### **Section 2.05 OATH AND BOND OF LOCAL ABC ADMINISTRATOR EMPLOYEES**

- A. Each County ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth of Kentucky, and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000).
- B. Each County ABC Administrator may require any County employee under his supervision to execute a similar bond in such penal sum as he deems necessary.

- C. The cost of bonds given under this section shall be borne by the County, in accordance with KRS 241.110.

### **ARTICLE THREE; LICENSING REGULATIONS**

#### **Section 3.01 NUMBER AND TYPE OF LICENSES**

The number and type of licenses for the manufacturing and/or trafficking in alcoholic beverages issued in the County shall not exceed the number and type of licenses as provided for and established under Kentucky Revised Statutes and all Kentucky Administrative Regulations promulgated pursuant thereto, as may be amended from time to time.

#### **Section 3.02 LICENSE REQUIRED FOR SALE**

No person shall, within the County, sell or dispense at retail or have in his possession for sale, nor manufacture or transport within the County for sale, any alcoholic beverages unless he shall first procure and have issued to him the appropriate license issued under the provisions of this ordinance, all State statutes and all administrative regulations adopted pursuant thereto. Any revocation, suspension, non-renewal or other action which obviates any license for the sale of alcoholic beverages issued by the State shall also operate to invalidate and make null and void the corresponding license issued pursuant to this ordinance.

#### **Section 3.03 TYPE OF LICENSES; FEES**

1. With respect to restaurant wine licenses:

Bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons.

- A. The term "restaurant" as used in this section shall have the same meaning as currently provided at KRS 241.010, to-wit: "a facility where the usual and customary business is the serving of meals to customers, that has a bona fide kitchen facility, and that receives at least fifty per cent (50%) of its gross receipts from the sale of food".

2. **Types of License for Distilled Spirits and Wine; Annual Fees.**

The County shall have the power and authority to issue the following types of licenses for the sale and trafficking in distilled spirits and wine, upon proper application and payment of the below prescribed annual fees. All license fees indicated are on a per annum basis, unless otherwise expressly indicated.

- A. Types of Retail Licenses Defined

1. **Retail Package License (distilled spirits and wine):** This license shall authorize the retail sale of distilled spirits and wine for consumption other than on the premises.
2. **Restaurant Wine License:** This license shall authorize the retail sale of wine for consumption on the licensed premises in accordance with the restrictions set forth in this section.

#### B. LICENSE FEES – DISTILLED SPIRITS AND WINE

|   | Type of License  | Fee                              |
|---|--|----------------------------------|
| A | Retail Package License (distilled spirits and wine)                          | \$400.00                         |
| B | Restaurant Wine License (distilled spirits and wine consumption on premises) | \$600.00 new<br>\$400.00 renewal |
| C | Special Temporary Wine License (per event)                                   | \$50.00 per event                |

#### C. MALT BEVERAGE LICENSES; FEES

The County shall have the power and authority to issue the following types of licenses for the sale and trafficking of malt beverages upon proper application and the payment of prescribed fees as set forth below. All fees stated are on a per annum basis, unless otherwise expressly indicated.

|   | Type of License  | Fee                              |
|---|--|----------------------------------|
| A | Retail Malt Beverage License                               | \$400.00 new<br>\$150.00 renewal |
| B | Special Temporary Retail Malt Beverage License (per event) | \$25.00 per event                |

#### D. SPECIAL TEMPORARY LICENSES

##### 1. Special Temporary Retail Malt Beverage License

- A. The County shall have the power and authority to issue a special temporary retail malt beverage license upon proper application and payment of the prescribed fee. This license shall authorize the retail sale and consumption of malt beverages on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events or other approved public events.

- B. As indicated in Section 3.03(C)(2) above, the fee for this license shall be \$25.00 per event.

2. Special Temporary Wine License

- A. The County shall have the power and authority to issue a special temporary wine license upon proper application and payment of the prescribed fee. This license shall authorize the retail sale and consumption of wine on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events or other approved public events.
- B. As indicated in Section 3.03(B)(3) above, the fee for this license shall be \$50.00 per event.

E. SPECIAL PRIVATE CLUB LICENSE FOR BEER ONLY; FEE REQUIRED

1. The County shall have the power and authority to issue a special private club license to any nonprofit social, fraternal, military or political organization or club which maintains or operates designated premises from which the general public is excluded. All restrictions and prohibitions otherwise applying to a malt beverage licensee shall apply to a special private club licensee.
2. In order to assure that the general public is excluded from the designated premises of a private club license holder, the following guidelines must be met:
- A. Each private club member shall be issued a membership card which can be readily produced while visiting said club;
- B. Each private club member shall be limited to no more than two (2) non-member guests at any club function or event; and
- C. A written log shall be maintained of all non-member guests.
3. The fee for this category of license shall be:

| Type of License                         | Fee      |
|---|----------|
| Special Private Club License, per annum | \$300.00 |

**Section 3.04 LICENSES PERMITTED**

In accordance with KRS 242.125, Spencer County shall have the power and authority to issue any license for the manufacturing, trafficking and sale of alcoholic beverages permitted by KRS 243.060, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of applicable State statutes and regulations and/or county ordinances.

### Section 3.05 REGULATIONS TO CONFORM TO STATE LAW

All regulations which may be issued to administer KRS 242.125, this section of the Spencer County Alcoholic Beverage Control Ordinance, and/or any other provisions of State law or county ordinance shall conform to the requirements of KRS 241.140. 201 DEC 10 4 5 12

### Section 3.06 LICENSE TERM; RENEWALS; AND WHEN LICENSE FEE DUE

- A. All required fees, as indicated above, for any form of alcoholic beverage license shall be due upon submission of any original application or application for renewal. The license applicant shall submit all required fees along with the application forms required for issuance of any alcoholic beverage license under this chapter. The required fee shall be paid by cash, certified check, or postal or express money order.
- B. All fees required to be paid upon submission of any original application or application for renewal of alcoholic beverage license under this ordinance shall be held on deposit by the County pending State license approval and issuance of the required State license. In the event that any requested State license is not issued for any reason, the applicant must submit a written request for a refund of all license fees paid in relation to the requested licenses not issued. The applicant's written request for refund must be submitted to the County ABC Administrator. Upon proper written request, the County will refund the license fees submitted by the applicant for any license(s) not issued, but the County will retain Fifty Dollars (\$50) per license fee paid for processing costs. In the event that any license fee submitted is Fifty Dollars (\$50) or less, there will be no refund from the County as the entire amount will be retained for processing costs.
- C. All alcoholic beverage licenses issued under this chapter shall expire on January 31 of each year, and all renewal applications and license renewal fees shall be due and payable on February 1 of each year.

### Section 3.07 PRO-RATED LICENSE FEE

When any applicant makes application for a new license authorized to be issued under this chapter, he 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 and one-half (1/2) the fee if less than six months remain before the license is due to be renewed. No abatement of license fee shall be permitted to any person who held a license of the same kind for the same premises in the preceding period and who was actually doing business under the license during the last month of the preceding license period.

### Section 3.08 REFUNDS PROHIBITED

In the event any licensee shall cease doing business for any reason, no refund of any license fee required hereunder shall be granted.

### **Section 3.09 ASSIGNMENT, TRANSFER OR LICENSE REPLACEMENT**

- A. The assignment, transfer or other form of acquisition of an interest in an alcoholic beverage license of whatsoever nature shall be governed by the provisions of KRS 243.630, 243.640, 243.650, 243.660 and all other applicable State law. An approval by the State Alcoholic Beverage Control Board of any proposed assignment, transfer or other acquisition of interest in a duly issued alcoholic beverage license shall be deemed an approval by the County and non-approval by the State shall be deemed as non-approval by the County. No County alcoholic beverage license may be sold, assigned or otherwise transferred unless the proposed transfer has first been approved by the State Alcoholic Beverage Control Board pursuant to applicable state law. A transfer fee of \$25 shall be paid to the County upon any permitted assignment or transfer of an alcoholic beverage license.
- B. In the event that an alcoholic beverage license has been lost or destroyed, the local ABC Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.

### **Section 3.10 POSTING OF LICENSE**

Each license issued by the County pursuant to this chapter shall be posted at the licensed premises in the same manner as prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each license issued by the County under this chapter shall remain in the local ABC Administrator's office as part of the public record.

### **Section 3.11 WHOLESALE DISTRIBUTORS**

Every wholesale distributor of alcoholic beverages who sells or conducts business with Spencer County shall report to the County ABC Administrator on a form to be provided by the County, the following information:

1. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter; and
2. The net revenues received by the wholesaler or distributor from each retailer.

## **ARTICLE FOUR: APPLICATION PROCESS AND ISSUANCE OF LICENSES**

### **Section 4.01 APPLICATION FOR STATE LICENSE**

All applicants for alcoholic beverage licenses available pursuant to this ordinance must submit the appropriate application for issuance of a State license as stipulated in KRS 243.380 and all other applicable State law.

### **Section 4.02 LOCAL ADMINISTRATOR TO APPROVE APPLICATION**

Pursuant to applicable State law, an applicant for an alcoholic beverage license must first have his State license approved by the County Alcoholic Beverage Control Administrator before the

applicant is eligible to apply for a State license. An applicant for a license under this chapter shall file with the County Alcoholic Beverage Control Administrator a copy of the State license application as required by the State, along with any County license application that may be required. The County license application shall be in a form prescribed by the County ABC Administrator and the application form shall be made available to interested applicants through the County Judge Executive's Office. The county license application shall be properly subscribed and sworn to before a notary public or other officer authorized to administer an oath and shall include an identification of the premises where alcoholic beverages are to be sold, either by way of the street number or otherwise, along with the name of the owner of the premises, and shall be accompanied by a certified copy of the deed or lease agreement through which the applicant holds possessory interest in the premises, in addition to any other information required on the application form as may be prescribed by the County ABC Administrator. In the event that the applicant is a corporation or a limited liability company, the applicant shall provide personal information as may be required on the application form (by way of example, name, age, date of birth, Social Security number, address, etc.) for each shareholder, officer and/or director of the corporation and/or member of the limited liability company, whichever applies.

#### **Section 4.03 APPLICANT'S CONSENT TO INSPECTION, SEARCH AND REGULATORY ACTION**

The County license application shall include the acknowledged consent of each and every applicant to permit the County ABC Administrator and his designees 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, to order an emergency temporary closure of the premises if the public health, safety, morals and/or welfare is threatened by one or more violation of any ordinance or statute involving disturbance of the peace or public disorder. A temporary closure of the licensed premises is permitted hereunder and shall remain in effect until review of the alleged violations by the County ABC Administrator which shall be completed within thirty-six (36) hours after the temporary closure becomes effective. Upon expiration of the 36-hour period of temporary closure, the County ABC Administrator shall either suspend or revoke the license pursuant to the provisions of this ordinance, in the event that sufficient grounds for suspension or revocation are found, or else vacate the order of temporary closure.

#### **Section 4.04 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE, OR SUSPENSION OR REVOCATION OF LICENSE**

##### **A. STATE LAW REFERENCES**

Causes for refusal to issue or renew a County license or for suspension or revocation of a County license shall be the same as provided for State licenses pursuant to KRS 243.450, 243.490, and 243.500.

## B. VIOLATION OF COUNTY ORDINANCE

In addition to the above State law references, violation of any County ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall also be grounds for refusal to issue or renew a license or suspension or revocation of a license.

## C. DELINQUENT TAXES OR FEES

No license for the sale or trafficking of alcoholic beverages shall be granted or renewed to any person or entity that is delinquent in the payment of any taxes or fees due the County at the time of application for the license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property, owned and/or occupied by the licensee, for which there are any delinquent taxes or fees due the County. If the licensee becomes delinquent in the payment of any taxes due to the County at anytime during a license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The County ABC Administrator may, in his discretion, approve a license to sell alcoholic beverages after receiving from the Spencer County Attorney a written statement to the effect that the applicant for a license has paid or has made satisfactory arrangements with the Spencer County Attorney to pay any indebtedness represented by the unpaid and delinquent taxes or fees.

## D. APPEALS

Appeals may be taken from any decision of the County ABC Administrator to the State Alcoholic Beverage Control Board, pursuant to the provisions of KRS 241.150 and 243.550, and all other applicable State law.

## Section 4.05 APPROVAL OR DENIAL OF APPLICATION OR RENEWAL

- A. If upon review of the license application, the County ABC Administrator determines that the applicant has complied with all requirements and regulatory provisions of this ordinance and applicable state law, that the premises sought to be licensed meets all requirements of this ordinance and applicable State law and that there are no causes for denial of a license, the County ABC Administrator shall approve that 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 violations 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 any violation set forth in the show cause order issued by the County ABC Administrator. Any decision by the ABC County Administrator on the application shall be subject to appeal as provided under this chapter and applicable State law.



#### Section 4.06 ISSUANCE OF COUNTY LICENSE

Upon issuance of a State license, the requested County license shall be issued, subject to the provisions of this ordinance and State law concerning renewal, revocation and/or suspension. No license shall be issued by the clerk without the approval of the County ABC Administrator, which approval shall be granted only after the County receives an exact duplicate or facsimile copy of the State license issued to the applicant. The County license shall be in a form as prescribed by the County ABC Administrator and shall conform with the requirements of KRS 243.440.

#### Section 4.07 POSTING OF LICENSES

Each County license issued under this ordinance shall be a licensed premises in the same manner as prescribed by KRS 343.620 State licenses. An exact duplicate or facsimile of each County license issued under this chapter shall remain in the County Clerk's Office the public record.

#### Section 4.08 PERSONS WHO MAY NOT RECEIVE A LICENSE

##### A. PERSON AS APPLICANT

1. No license shall be issued under this chapter until after the applicant has been issued the appropriate State license by the Commonwealth of Kentucky.
2. No license shall be issued to any person under 21 years of age.
3. No license shall be issued to any person who is not a citizen of the United States and has not had an actual, bona fide residence in this State for at least one (1) year before the date on which his or her application for a license is made.
4. No license shall be issued to any natural person if he or she:
  - a. has been convicted of any felony in the five (5) years immediately preceding the date of application. The five years shall be from the date of conviction, released from custody or incarceration, parole or termination of probation, whichever is later;
  - b. has been convicted of any misdemeanor involving the controlled substances described under Kentucky Revised Statutes 218A in the two (2) years immediately preceding the application;
  - c. has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application; or
  - d. has had any license issued under this ordinance relating to the regulation or the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such state statute, until the expiration of two (2) years from the date of the revocation or conviction.

**B. CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY AS APPLICANT**

No license shall be issued to a partnership, limited partnership, limited liability company or corporation if:

- i. any member of the partnership or limited liability company, or any of the directors, principal officers, shareholders and managers of the corporate entity do not qualify under subsection A of this section;
- ii. if the applicant has had any license issued under this ordinance relating to the regulation of the manufacture, sale or the transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any criminal offense referenced as set forth above in subsection A(4) of this section, until the expiration of two (2) years from the date of the revocation or conviction; or
- iii. if any member of the partnership, limited partnership, limited liability company, or any director, officer, shareholder or manager of the corporate entity has had any license issued under any statute relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause or has been convicted of any criminal offense referenced as set forth above in subsection A(4) of this section, until expiration of the latter of two (2) years from the date of revocation or two (2) years from the date of conviction.

**ARTICLE FIVE: PROHIBITIONS, RESTRICTIONS  
AND GENERAL REGULATIONS**

**Section 5.01 HOURS OF SALE**

- A. Premises for which there has been granted a license for the retail sales of alcoholic beverages shall be permitted to sell or offer for sale alcoholic beverages only between the hours of 6:00 am and 12:00 am each day, except Sunday. It shall be unlawful to sell or offer for sale any alcoholic beverage during the twenty-four (24) hours of each Sunday.
- B. It shall be unlawful to keep open for business or permit the public to remain within, or to permit 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 alcoholic beverages is prohibited; provided, however, that in the case of bona fide restaurants and hotels/motels/inns, such establishments may be kept open for business during such hours when alcoholic beverage sales are prohibited, but no alcoholic beverages may be sold to the public during such hours.
- C. It shall be unlawful to sell or offer to sale, at retail, in or upon any licensed premises, any alcoholic beverages on the day of any primary elections or general elections, during the hours in which the polls are open within the precincts in which such election is being held.

## Section 5.02 GENERAL REGULATIONS AND RESTRICTIONS

- A. No gambling or game of chance, unless otherwise authorized by the Commonwealth of Kentucky, shall be permitted in any form on the licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on the premises.
- B. It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Spencer County, as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Sheriff or the County ABC Administrator shall have the authority to confiscate any and all radio receiving apparatus.
- C. 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 premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premise.
- D. Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- E. No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.
- F. All restaurants and dining shall distribute alcoholic beverages only during times in which their kitchen is open and their food staff is on duty.

## Section 5.03 ADVERTISING RESTRICTIONS

- A. Signage. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside window or interior of the business. No additional signs, banners, posters or other type of display advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on or be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises menus or other price cards not larger than 11"x14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages.
- B. No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

C. It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

D. Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

#### **Section 5.04 LICENSE TO BECOME VOID IF BUSINESS DORMANT**

Any license for the sale of alcoholic beverages issued under this chapter shall become null and void in the event that no business is transacted under the license for a period of ninety (90) days. If no business is transacted under any license issued under this chapter during any consecutive 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 4:110, as amended from time to time, to continue such license in dormancy. In the event that a period of dormancy is applied for and granted by the State ABC Administrator, 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 for the period the license was in dormancy in the same amount due had the license remained active for the same period.

#### **Section 5.05 LICENSEE TO DISPLAY WARNING TO MINORS**

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12" x 16" which shall read substantially as follows:

WARNING TO MINORS: ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) IS SUBJECT TO A FINE OF UP TO ONE HUNDRED DOLLARS (\$100) IF THEY:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages;
2. Purchase or attempt to buy, or have served to them, alcoholic beverages;
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

#### **Section 5.06 ACCOUNTING REQUIREMENT**

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involving the sale of alcoholic beverages and food in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the County ABC Administrator. Such books and records shall be made available at all reasonable times for inspection by the County ABC Administrator or his appointed designee.

#### Section 5.07 LICENSEE TO OBTAIN COPY OF ORDINANCE

- A. Upon timely request by the licensee, the County ABC Administrator shall furnish to each and every licensee a copy of this ordinance at the time the license is issued with signed receipt from the licensee. Any changes or amendments to this ordinance shall be forwarded to each licensee at the address on the license. Failure to receive or review such changes or amendments or review the ordinance shall not be an excuse or justification for any violation, nor shall failure to receive or review any changes or amendments prevent, remit or decrease any penalty for any violation of this ordinance.
- B. It shall be the duty of the licensee under this ordinance to obtain a copy of this ordinance from the County ABC Administrator. Further, the cost of obtaining a copy of this ordinance shall be borne by the licensee.

#### Section 5.08 INSPECTIONS

Every applicant procuring a license pursuant to this ordinance consents and must submit to the entry upon licensed premises by the State or City police, County Sheriff, the County ABC Administrator or other duly authorized representative of the County, City or State at all reasonable hours for the purpose of inspection and search of the premises, and consents to the removal from the premises of all things and articles contained on the premises in violation of county ordinances or state law, and consents to the introduction of such things and articles into evidence of any prosecution that may be brought for such offenses.

#### Section 5.09 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING; STANDARDS FOR CERTIFICATION

- A. All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the County ABC Administrator. Before approval is granted, the County ABC Administrator, shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The County shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.
- B. All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by Spencer County for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the County ABC Administrator.

C. Subsections (a) and (b) above shall not apply to any Manufacturer of alcoholic beverages as this term is defined in KRS 241.010(29) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

D. Standards for Certification. The training person or agency must reasonably instruct upon and certify the participant's competence in at least the following:

1. Pertinent federal, state and local laws related to the sale of alcohol;
2. Verification of age, forms of identification and usual methods of false or misleading age identification;
3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
4. Recognition of the signs of intoxication;
5. Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
6. The licensee's policies and guidelines, including the employee's role in observing those policies; and
7. Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

E. All persons required to undergo the training set forth in paragraph (a) above shall complete same within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the County ABC Administrator under the foregoing criteria not less than once every three (3) years.

F. Personnel Certification Records. Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this ordinance. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the Alcoholic Beverage Control Administrator, all licensees and other persons engaged in the sales or service of alcoholic

beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

G. Penalties:

1. No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.
2. Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this ordinance, shall upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.

**ARTICLE SIX: CONDUCT, LOCATION PREMISES  
AND STRUCTURE REQUIREMENTS**

**Section 6.01 CONDUCT REQUIREMENT**

Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

**Section 6.02 ZONING RESTRICTIONS: LOCATION, PREMISES AND STRUCTURE  
REQUIREMENTS**

- A. No license shall be issued under this ordinance for the sale or trafficking in any alcoholic beverages at any premises or location where such business is prohibited under the County's zoning ordinances or any other ordinances of the County as may be amended or supplemented from time to time, and any license issued in violation of this section shall be null and void.
- B. No license shall be issued under this ordinance unless the premises to be licensed conforms to the sanitary, safety and building code requirements of the County and rules and regulations of the State and Local Board of Health applicable thereto. Further, the County ABC Administrator shall not grant any alcoholic beverage license until the license applicant and the intended licensed premises have been approved by the State Health Department and County Code Enforcement Officer with respect to all applicable building codes.
- C. Any licensee holding a license which permits the sale and consumption of alcoholic beverages on the premises where sold shall maintain an easily discernible physical barrier

between the general dining area and any bar area. The separate bar area shall be posted "Persons under Twenty One (21) years of age may not enter or remain in this area".

- D. Any licensee holding a license which will be conducting sales through a drive thru window shall not locate that window in the rear of the premises. The drive thru window must be located in plain sight on either side of the premises or the front of the premises.

## ARTICLE SEVEN: PENALTY FOR VIOLATIONS

### Section 7.01 PENALTY FOR VIOLATIONS

- A. Any person who violates any provision of this ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

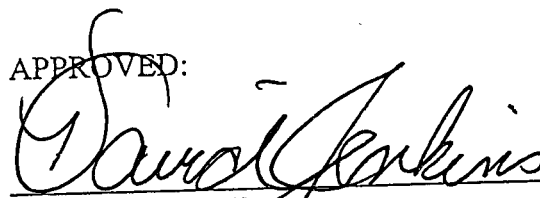
1. For the first offense, a fine not to exceed Five Hundred Dollars (\$500); and
2. For any subsequent offense, a fine not to exceed Five Hundred Dollars (\$500) or confinement in jail not more than six (6) months, or both.

- B. In addition to any other penalty provided for herein or as provided under any other applicable federal, state, or local law or regulation, any licensee violating any provision of this ordinance shall be subject to suspension or revocation of any and all licenses issued under this chapter.


PASSED AND APPROVED ON FIRST READING, THIS 16<sup>th</sup> DAY OF NOV, 2009.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED, THIS 1<sup>st</sup> DAY OF DEC., 2009.

APPROVED:

  
DAVID JENKINS  
COUNTY JUDGE EXECUTIVE

ATTEST:

  
Judy Packett, County Clerk