

**COMMONWEALTH OF KENTUCKY
HENRY COUNTY FISCAL COURT
ORDINANCE NO. _____**

***AN ORDINANCE RELATING TO THE CONTROL OF
ALCOHOLIC BEVERAGES IN HENRY COUNTY
AND THE RETAIL SALE OF ALCOHOL AND ALL ALCOHOLIC
BEVERAGES INCLUDING DISTILLED SPIRITS AND WINE,
MALT BEVERAGES, AND BEER***

WHEREAS, Henry Fiscal Court has the authority pursuant to the provisions of K.R.S. §67.083 (n), and other applicable laws to pass ordinances regulating the sale and transfer of alcoholic beverages; *and*

WHEREAS, *the retail sale and retail transfer of alcoholic beverages is now authorized in Henry County pursuant to elections held under K.R.S. Chapters 242 and 243, said citizens of Henry County voting to allow said retail sale and retail transfer of alcoholic beverages; and,*

WHEREAS, *Henry Fiscal Court finds it necessary to regulate said retail sale and retail transfer of packaged alcohol, malt beverages, wine, and all alcoholic beverages as covered under Section IV of this Ordinance and KRS 243.060.*

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF HENRY COUNTY, COMMONWEALTH OF KENTUCKY THE FOLLOWING:

ARTICLE I. IN GENERAL

Purpose

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS Chapters 241-244 for retail licenses as listed under KRS 243.060. Retail licenses as listed under KRS 243.060 and Section IV of this ordinance will be allowed upon the second reading of this ordinance pursuant to the local option election held December 15, 2015.

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 Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Scope

This Ordinance shall only apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the County or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

Adoption of State Alcoholic Beverage Control 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.

ARTICLE II. LICENSES

Scope

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.1244. This ordinance shall apply to the sale of alcoholic beverages, including but not limited to, malt liquor, beer, wine and distilled spirits on the premises of the license.

ARTICLE III. DUTIES OF THE OFFICE OF THE COUNTY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

- (a) The Henry County Fiscal Court shall appoint an official as the County Alcoholic Beverage Control Administrator (hereinafter referred to as the County ABC Administrator), unless the County Judge-Executive appoints someone else to fill the position pursuant to KRS 241.110 and may affix proper compensations determined by the Court.
- (b) The 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 with approval from Fiscal Court.
- (c) The salary for the office of the 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 Fiscal Court.
- (d) The functions of the County ABC Administrator shall be the same with respect to county license and regulations as the function of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the 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 it has first been appropriately approved by Fiscal Court.
- (e) 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.

- (f) The County ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.
- (g) 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, has a criminal record, he shall have the authority to require such person to appear in person at the Henry County Sheriff's Office for the purpose of having his or her fingerprints taken.
- (h) The County ABC Administrator shall before entering upon his or her duties as such 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).
- (i) Appeals from the orders of County ABC Administrator may be taken pursuant to statute. Appeals from the orders of the County ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV. APPLICATION/LICENSES

(a) Before an application 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.

- 1) The advertisement shall state the names and addresses of the member of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
- 2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(b) 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 Henry County, as amended and supplemented from time to time.

(c) 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, and the ABC Board and Henry 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;
 - 5) Date residence was established in Kentucky, if a resident of Kentucky. If Henry County resident indicate when residence was established;
 - 6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this Ordinance;
 - 7) Extent of stock ownership;
 - 8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.
- (d) Each application shall be accompanied by a check, cash or a postal or express money order for the license fee.
- (e) 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.
- (f) All County Licenses shall be in such form as may be prescribed by the Fiscal Court and shall contain:

- 1) The name and address of the licensee;
- 2) The number of license;
- 3) The type of license;
- 4) A description by street and number, or otherwise, of the licensed premises;
- 5) The name and address of the owner of the building in which the licensed premises are located;
- 6) The expiration date of the license;
- 7) 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.

- (g) All licenses approved by the County ABC Administrator and issued by Henry County shall begin on July 1 of any year and shall expire on June 30 of the following year.
- (h) 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.
- (i) Any licenses issued after January 1 of any year shall be assessed a fee equal to one-half (1/2) of the annual fee for the remainder of the license period.
- (j) In the event a violation of this Ordinance occurs that requires the revocation of the license, the County shall not be required to refund any portion of the license fee.

Fees Pursuant to KRS 243.060

County licenses shall be issued by the County ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant’s state application.

License Fees for retail alcohol sales including but not limited to beverage by the drink, shall be pursuant KRS 243.060 as follows;

- (a) **Quota retail package license**, (includes distilled spirits and wine) per annum..... **\$300.00**
- (b) **Non-Quota type 1 retail drink license** (includes distilled spirits, wine and malt beverages), onboard airplane, railway, automobile race track, horse track, convention center or state park, per annum**\$300.00**
- (c) **Non-quota type 2 retail drink license** (includes distilled spirits, wine, and malt beverages), for restaurants (50% food sales), motel/hotel, distillery, airport, riverboat, small farm winery or entertainment destination center, per annum..... **\$300.00**
- (d) **Non-quota type 3 retail drink license** (includes distilled spirits, wine, and malt beverages), private social club, bed and breakfast or dining car, per annum.....**\$300.00**
- (e) **Non-quota type 4 retail malt beverage drink license**, microbrewery, small farm winery, service station or other business selling for consumption on premises, per annum.....**\$300.00**
- (f) **Special Sunday retail drink license** (includes distilled spirits, wine and malt beverages) by drink only, per annum**\$300.00**
- (g) **Non-quota retail malt beverage package license**, per annum.**\$300.00**

- (h) **Limited restaurant retail drink license** (includes distilled spirits, wine, and malt beverages), (70% food sales) per annum..... **\$300.00**
- (i) **Limited golf course retail drink license** (includes distilled spirits, wine, and malt beverages), per annum..... **\$300.00**
- (j) **Qualified Historic Site retail drink license** (includes distilled spirits, wine and malt beverages) per annum.....**\$300.00**
- (k) **Special temporary retail drink license**, non-profit event only **\$166.00**

1. The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$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 fifty dollar (\$50).
2. 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.
3. If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Effective: June 25, 2013

History: Amended 2013 Ky. Acts ch. 121, sec. 54, effective June 25, 2013. -- Amended 2004 Ky. Acts ch. 20, sec. 7, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 346, sec. 219, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 518, sec. 4, effective April 13, 1998. -- Amended 1978 Ky. Acts ch. 432, sec. 3, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 335, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2554b-112, 2554b-221.

Refund of License Fee

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth of Kentucky with reference to alcoholic beverages or other cause outside licensee’s control then the County shall refund to it the proportionate part of the license if the licensee provides sufficient proof of the County ABC Administrator that such period of inactivity was not the fault of the licensee or the result of revocation, suspension or other wrongdoing by licensee or agent or employee of the licensee.

Lost or Destroyed Licenses:

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 he shall be satisfied as to the facts; provided, however, that the person applying for said duplicate license shall pay a fee of ten dollars (**\$10.00**) for said duplicate.

Temporary Closing:

In the course of any one day of operation of a licensed premises should multiple violations of the Ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the Henry County Sheriff's Office, such reoccurrence shall be reported to the County ABC Administrator by the Henry County Sheriff's Office or designee. The County ABC Administrator may, in the interest of public health, safety, morals and welfare, direct the Henry Sheriff's Office to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispensing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the County ABC Administrator or designee; such review shall occur within the next three (3) business days.

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 Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or 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 terms of Kentucky Revised Statutes Chapters 241, 243, and 244 to be created, referred to, irrespective of whether the license knew of or permitted the violation or whether the violation was committed on 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 discretions deems sufficient.
- (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) 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 of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapters 241, 243, and 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 of the clerks, servants, agents or employees of the licenses shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of any one (1) such felony and one (1) such misdemeanor.
- 4) Willful and deliberate failure or defaults of a licensee to pay **the 6% County Quarterly Regulatory Fees, License Fees 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 or Revenue made in pursuance thereof.
- (5) Revocation of any license granted under any act of congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the license at a price in excess of the price set by federal or state regulations.
- (6) Setting up, conducting, operating or keeping, on the licensed premises, any gaming 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, **other than state authorized** lottery, gift enterprise, handbook or facility.

Notice to Licensee; Surrender of License; Hearing

- (a) Within three (3) days after any order of revocation 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 license is not forthwith surrendered by the licensee, the Henry County Sheriff's Office at the request of the County ABC Administrator shall immediately cause one of its deputies to take physical possession of the license and return it to the County ABC Administrator.

- (b) When a license has been revoked 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.
- (c) Appeal from the decision of the County ABC Administrator shall be to the ABC Board.
- (d) If a license is revoked or suspended by an order of the County ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

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 payment of one hundred dollars (\$100.00) shall be made to the County ABC Administrator.

Refusal of License:

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

- (a) 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 alcoholic beverage licensing, sales or the administration thereof.
- (b) If the applicant has done any act for which a revocation of license would be authorized; or
- (c) If the applicant has made any false material statement in his application.

A license (new issuance, transfer or renewal) may be refused by the County ABC Administrator for any reason which he or she, in the exercise of his or her sound discretion, may deem sufficient.

Review of License

A) Alcoholic beverages by the drink – Limited Restaurant Licenses

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicant's gross receipts is earned from the sale of food.

This documentation shall be provided **quarterly** by the applicant and shall be submitted with the applicant's quarterly regulatory fee filings. **At least one (1) quarterly report per year** shall report information consisting of a certificate from a **Certified Public Account** familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted an agreed upon procedure using State Sales Tax records according to accepted accounting principles of the pertinent records of _____ and certify that the Licensee earned at least seventy percent (70%) of its gross receipts from the sale of food during the quarter ending _____. The Licensee derived ____% of its gross receipts from food ____% of its gross receipts from the sale of alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage and the certificate is due **no later than the end of the month following the end of the calendar quarter selected.**

Failure to provide this certificate within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00.

Failure to provide this certificate within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the

license shall be revoked, alcohol sales suspended and a new license application required.

In the event the 70% food requirement is 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 70% minimum food requirement has been met.

(B) NQ-2 Retail Drink Licenses

May be issued to restaurants, distilleries, airports, motel/hotels, riverboats, small farm wineries or entertainment destination center; however, only restaurants are required to meet the 50% gross receipts from the sale of food minimum.

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that fifty percent (**50%**) of the applicant's gross receipts is earned from the sale of food.

This documentation shall be provided quarterly by the applicant and shall be submitted with the applicant's quarterly regulatory fee filings. **At least one (1) quarterly report per year** shall report information consisting of a certificate from a **Certified Public Account** familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted an agreed upon procedure using State Sales Tax records according to accepted accounting principles of the pertinent records of _____ and certify that the Licensee earned at least fifty percent (50%) of its gross receipts from the sale of food during the quarter ending _____. The Licensee derived ____% of its gross receipts from food ____% of its gross receipts from the sale of alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified

percentage and the certificate is due **no later than the end of the month following the end of the calendar quarter selected.**

Failure to provide this certificate within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00.

Failure to provide this certificate within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended and a new license application required.

In the event the 50% food requirement is 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 50% minimum food requirement has been met.

- (c) Alcoholic beverage by the drink license holders and all other licenses as outlined under KRS 243.060 shall be subject to the following regulatory license fee reporting requirements.

Regulatory License Fee Description and Reporting

- (a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the County ABC Administrator. The license fee shall be **six percent (6%) of gross** sales of alcoholic beverages as set by Fiscal Court. This regulatory license fee will help to offset the increased costs of the county's administration, regulation, and law enforcement associated with the county's adoption of the sale of retail package alcohol sales.
- (b) Payment of such regulatory fees shall be remitted to the County Treasurer, and shall accompany the forms and documentation approved for such use by Fiscal Court. These returns and payments are due no later than by the **end of the month immediately following each calendar quarter** at which time the annual license fees shall be deducted as credit. Any licensee that does not accrue

enough quarterly regulatory fees by the end of the fiscal year (June 30) to use all of their annual fee credit shall forfeit the rest of that fee to the county.

- (c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to a penalty fee of \$250.00.**
- (d) Failure to pay such quarterly remittance within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, alcohol sales suspended and a new license application required.**

Change of Information

- (a) Since licenses issued by the county may be in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the County ABC Administrator. The County ABC Administrator can therefore investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- (b) As used herein, the word “change” is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- (c) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:
 - 1) Name and address;
 - 2) Nature of interest;
 - 3) Whether or not a citizen of the United States;
 - 4) Date of birth;
 - 5) Date residence was established in Kentucky, if a resident of Kentucky. If a Henry County resident indicates when residence was established;
 - 6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;
 - 7) Extent of stock ownership;
 - 8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

This information shall be filed with the County ABC Administrator as an amendment of the application pursuant to which the license was granted.

Dormancy

(a) It is necessary that a licensee actually conducts 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, might 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 business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the County ABC Administrator.

(c) Except that the provisions of subsection (a) hereof 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, county or other governmental agency under the power of eminent domain, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. 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 prior to the expiration of the ninety (90) days of inactivity, for any of the 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 thereunder 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 sound discretion.

License Renewal

- (a) All State and County licenses expire on **June 30**, renewal applications and fees for the County licenses must be on file with the County ABC Administrator 30 days prior to the expiration – **June 1**. **Any license renewal application and fee that is not on file 10 days after the due date will be charged a penalty of \$250.**
- (b) **Any license renewal applications and fees that are not on file with the ABC Administrator by June 30, shall be revoked, all alcohol sales suspended and a new license application shall be required.**
- (c) Exceptions to the renewal rules above are: where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, county or other governmental agency or private corporation possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; 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.
- (d) All state license applications and renewals are handled totally paperless on line at the State ABC portal.

Delinquent Taxes or Fees

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 delinquent taxes or fees due the County. Further, if a licensee becomes delinquent in the payment of any taxes 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.

Books, Records and Reports

(a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. 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.

(b) 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 correspondence to the County ABC Administrator required by statute shall be furnished to the County ABC Administrator.

ARTICLE V. HOURS FOR SALE

All licensees shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by drink or package based on their type of license, **Monday through Saturday 6:00 a.m. to 12:00 Midnight.** All licensees shall be allowed to sell or dispense distilled spirits, wine and/or malt beverages by drink or package based on their type of license between the hours of **12:00 noon and 11:00 p.m. on Sundays.** Any sales of alcoholic beverages by drink on Sunday will require the additional Sunday sales drink license. Package Sunday sales will not require a Sunday sales license.

ARTICLE VI. 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 on such premises which is intentionally adjusted so as to receive police messages broadcast from

any law enforcement agency in Henry County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Henry County Sheriff's Office or the County ABC Administrator, or his 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 premises. 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.

(e) It shall be unlawful for a Quota Retail Package, Quota Retail Drink, Non-quota Retail Malt Beverage Drink or Special Temporary licensee under this ordinance to sell alcoholic beverages of any kind within 500 feet of a school or a church. Only the Non-quota retail malt beverage package, Non-quota type 2 retail drink license and the Limited restaurant licensee may be closer than 500 feet to a church or school. Measurements will be from the closest points of the structures. This would not affect a business already possessing a license at the date of the passage of the ordinance.

(f) 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 permit any drunk or intoxicated person to remain on the licensed premises.

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

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

Persons under the age of twenty-one (21) are subject to a Fine of up to the maximum allowed by state law 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.

(i) The licensee, before commencing any business for which a license has been issued, shall post and display the license 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.

(j) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches (11" x 14") in size, with letters at least one inch (1") 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 fifty dollars (\$50.00)**. KRS 243.895.

(k) Any off-premises signage advertising the sale of alcoholic beverages is prohibited.

(l) 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 purchaser for any consideration except for cash at time of purchase.

(m) 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 employment has had any County license under this Ordinance revoked for cause.

Violations of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

ARTICLE VII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

- (a) Persons employed in the selling and servicing of alcoholic beverages shall participate in and complete a County-approved responsible beverage service training program. The County will **require participation in the STAR training program. THE MANDATORY PARTICIPATION IN THE STAR TRAINING PROGRAM INCLUDES ALL PERSONS EMPLOYED IN ANY BUSINESS IN HENRY COUNTY INVOLVED IN THE SALE OF RETAIL PACKAGED ALCOHOL INCLUDING BEER, WINE, AND MALT LIQUORS.**
- (b) Persons required to complete training under paragraph (a) above shall complete that training within ninety (90) days of the date on which the person first becomes subject to the training requirement. 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 (3) years thereafter.
- (c) The manager of the business shall be responsible for compliance with the training requirements and shall maintain for inspection by the County ABC Administrator all current STAR Training

Certificates. These **certificates must be on the premises**, with easy access for inspection at all times, either displayed with the county and state license or at the checkout counter where all employees have knowledge of them and access to them.

- (d) The Applicant and Licensee must file STAR Training Certificate of Completion on **all new employees** or renewed training certificates when the Quarterly Reports are filed with the County ABC Administrator.
- (e) **For any current employee who has been employed for 90 or more days who does not have a current STAR Training Certificate, the licensee shall be fined \$100. After the first fine, the employee shall have 30 days to complete the training and if not completed by that time, the license shall be suspended and all alcohol sales stopped until the training is completed.**

ARTICLE VIII. SIGNS AND ADVERTISING

- (a) All signage shall be in compliance with any and all other existing rules and regulations of Henry County and the Henry County Planning and Zoning Commission.
- (b) Signage which refers directly or indirectly to alcoholic beverages will be limited to two (2) signs not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying 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 windows of the licensed premises business cards not larger than two and one-half inches (2 ½") in size, setting forth the price at which he offers alcoholic beverages for sale. **Temporary signs and/or banners not to exceed 4 feet by 8 feet may be displayed two (2) weeks prior to a special event.**
- (c) No flashing lights which refer directly or indirectly to alcoholic beverage shall be used to illuminate the exterior of any premises licensed under this chapter.

(d) 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 of advertising alcoholic beverages.

(e) It shall be unlawful for any person holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

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

ARTICLE IX. IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time the Henry County Fiscal Court may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this Ordinance.

ARTICLE X. NOISE

No licensee shall be permitted to have live music entertainment on retail premises between the hours of **11:00 p.m. and 9:00 a.m. on Sunday-Thursday** or between **12:01 a.m. and 9:00 a.m. Saturday and Sunday**. No licensees having live music on the premises shall serve any malt beverage, wine or distilled spirits beverage after 12:00 midnight on any day. All licensees having live music on the premises shall close and shall not do business between the hours of 12:30 a.m. and 9:00 a.m. Live music as defined herein shall include but not be limited to live bands, singers, disc jockeys, juke boxes, musical instruments and music of any other kind and presented in any format or through any device.

ARTICLE XI. ILLEGAL SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY

No person shall cause, permit, encourage or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

- (A) Sexual conduct as defined in KRS 531.010(4).
- (B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:
 - (1) The nipple or the female breast.
 - (2) The female breast below the nipple.
 - (3) The genitalia.
 - (4) The pubic hair.
 - (5) The anus.
 - (6) The buttocks.
- (C) Any dance, performance or exhibition whereby the movements of the performers (regardless of whether said performers are clothed or unclothed) simulates sexual conduct or is intended to arouse a sexual response from the persons viewing same and including but not limited to pole dancing and other forms of erotic and/or sexually oriented performance.
- (D) The sale or display of materials depicting any activity or display prohibited pursuant to any of the foregoing sections of this ordinance.

SEVERABILITY

If any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

ARTICLE XII. ENFORCEMENT

Henry County Sheriff's Office and the County ABC Administrator are authorized to enforce this Ordinance for alleged violations.

Investigation and Inspection of Premises

The County ABC Administrator and any investigator acting under the authority of the County ABC Administrator shall have the full police powers of peace officers within the boundaries of the County. They, as well as any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

Penalties

The following penalties shall be in addition to any criminal prosecution instituted in Henry District Court against an alleged violator and fines hereunder shall be payable to the County ABC Administrator. All payments of license fees, regulatory fees, fines and penalties shall be transmitted to the County Treasurer to be deposited in the appropriate designated account.

1. **Quarterly Regulatory Fees** – These fees along with the documentation of retail alcohol sales are due one month following the end of the quarter. If these are not on file with the ABC Administrator 10 days after the due date, a **penalty fee of \$250** shall be assessed on the licensee. Failure to pay such quarterly remittance within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, **alcohol sales suspended and a new license application** required.
2. **CPA review of food sales percentage** to alcoholic beverage sales – This review is required by the Limited Restaurant (70%) and NQ2 Restaurant (50%) and must be completed at least one quarter per year. It is due one month after the end of the quarter chosen. If it is not completed and on file with the ABC Administrator 10 days after the due date, a **penalty fee of \$250** will be assessed on the licensee. Failure to provide the certificate of review within 30 days of the due date (60 days after the end of the quarter) constitutes a violation and the license shall be revoked, **alcohol sales suspended and a new license application** required.
3. **Renewal of County Licenses** – License renewal applications and fees are due to be on file with the ABC Administrator 30 days before they expire. Any that are not on file 10 days after the due date shall be assessed a **penalty of \$250**. Any licenses that are not renewed by the expiration date (June 30) shall be required to reapply for a new license.
4. **Star Certificates** - For any current employee who has been employed for 90 or more days who does not have a current STAR Training Certificate, the licensee **shall be fined \$100**. After the first fine, the employee shall have 30 days to complete the training and if not completed by that time, the license shall be **suspended and all alcohol sales stopped** until the training is completed.
5. 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)** or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation shall be fined not less than two hundred dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

EFFECTIVE DATE

APPROVED this ___20th___ day of July, 2021.

**JOHN LOGAN BRENT
HENRY COUNTY JUDGE EXECUTIVE**

ATTEST:

**DENISE PERRY, DEPUTY
HENRY COUNTY FISCAL COURT**

THIS INSTRUMENT PREPARED BY:

**HON. VIRGINIA LEE HARROD
HENRY COUNTY ATTORNEY
106 SOUTH MAIN STREET
P.O. BOX 128
NEW CASTLE, KENTUCKY 40050
(502) 845-4481**

Date of First Reading _____ 6/15/21 _____

Date of Second Reading _____ 7/20/21 _____