

COPY

NICHOLAS COUNTY KENTUCKY
ORDINANCE NO. 410.4

AN ORDINANCE relating to the Retail Sale of Alcoholic Beverages by the drink in Restaurants-Hotels/Motels in Nicholas County, Kentucky.

WHEREAS, the following language is applicable to the Retail Sale of Alcoholic Beverages by the drink at Restaurants- Hotels/Motels in Nicholas County, Kentucky and can be used as the controlling authority for the county regarding this matter.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF NICHOLAS, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

WHEREAS, the legislature of the Commonwealth of Kentucky has enacted a statutory scheme regulating the sale and consumption of alcoholic beverages, and

WHEREAS, the statutory scheme enacted by the legislature grants to certain counties the right to also regulate and license the sale of alcoholic beverages, and

WHEREAS, for many years the County of Nicholas has licensed and regulated the sale of alcoholic beverages other than alcoholic beverages by the drink for consumption on the premises, and

WHEREAS, pursuant to statute the County is now, in certain limited situations, authorized to license and regulate the sale of alcoholic beverages by the drink for consumption on the premises, and

WHEREAS, the Nicholas County Fiscal Court has determined that there exists within the County substantial unemployment and that the economy of the County is not expanding at a satisfactory rate, thereby creating conditions of economic hardship within the County, and

WHEREAS, the Court has further determined that by licensing certain hotels, motels, inns and/or restaurants in order to allow the sale of alcoholic beverages by the drink and for consumption on the premises may aid the County's economic growth, increase its employment and alleviate existing conditions of economic hardship,

HOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF NICHOLAS , KENTUCKY:

SECTION I

Unless the context otherwise requires, the following terms, as used in this Ordinance, shall be construed according to the definitions given below.

A. Alcohol beverages means every liquor or solid, whether patented or not, containing alcohol in an amount in excess of that permitted under Chapter 242 of the Kentucky Revised Statutes and capable of being consumed by human beings, (including distilled spirits and wine by the drink) It includes every beverage for which the Commonwealth of Kentucky requires a license under Chapter 243 of the Kentucky Revised Statutes.

B. County Administrator or administrator means the County Judge Executive.

C. Sale means any transfer, exchange or barter for consideration, and includes all sales made by any person, whether principal, proprietor or agent, servant or employee, of any alcoholic beverage. "Sale" further means to solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

D. Retail sale means any sale where delivery is made to any person not holding a license.

E. Person means and shall include persons, associations, partnerships, corporations and every other being known to law.

F. Premises or Licensed Premises means a building or structure and does not include any appurtenant structures, parking lots or areas outside the confines of such building or structure.

G. Restaurant, as used in reference to Class "D" licenses referred to herein means eating establishments open to the general public having dining facilities for not less than one hundred (100) persons, and as used in reference to Class "D" licenses referred to herein means businesses with dining facilities which receive at least 50% of their gross annual income from their dining facilities by the sale of food.

SECTION II

It shall be unlawful to sell or offer for sale at wholesale or at retail in the County any alcoholic beverage without having the appropriate wholesale or retail license hereinafter provided

for, or in violation of the terms of such license. Each license issued shall be applicable only to the specific premises shown thereon and shall not entitle the holder of the license to sell from any other premises within the County.

SECTION III

Licenses for the retail sale of alcoholic beverages by the drink for consumption on the premises within the unincorporated areas of Nicholas County are hereby authorized pursuant to KRS 242.185 to be issued only to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons;

SECTION IV

A license fee is hereby imposed for such licenses as may be issued hereunder in such maximum amount as provided for in KRS 243.070 or such other statute or regulation as may apply hereto.

SECTION V

Applications for licenses shall be made to the County Administrator, in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation. Such applications shall be made on forms supplied by the County Administrator and no license shall be issued until completed in full and the appropriate fee therefor has been paid.

SECTION VI

No license provided for in this Ordinance shall be issued to person prohibited in accordance with KRS 243.100, including, but not limited to:

- a. A person who has been convicted of a felony, until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation,

whichever is later;

- b. A person whose license under this Section has been revoked for any cause;
- c. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- d. A partnership, unless all the members of the partnership shall be qualified to obtain such a license;
- e. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a license hereunder for any such reason;
- f. A person whose place of business is to be conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;
- g. A person who has, within five years of the application date, been convicted of a violation of any federal or state law concerning the manufacture, possession, transportation or sale of alcoholic beverages, or who shall have forfeited his bond to appear in Court to answer charges for any such violation;

SECTION VII

Each license issued hereunder shall terminate on the 30th day of June following the issuance thereof. Should any such license be issued by the County and any required City, County, State or Federal approval, certification or licensing not be obtained by the applicant or should same be voluntarily or involuntarily withdrawn, removed, relinquished or suspended, then the license issued hereunder by the County shall immediately become null and void and shall be surrendered to the County Administrator. Any license fee paid shall thereupon be automatically forfeited and shall not be prorated. Following a license suspension or revocation, a new license may be applied for upon

the making of a new application and the payment of a new license fee.

SECTION VIII

The licenses issued hereunder shall be subject to all state laws and regulations as well as such additional administrative regulations as the Fiscal Court may issue for the enforcement or administration of this ordinance.

SECTION IX

Any person violating any provision of this Ordinance shall be fined not less than \$100.00 nor more than \$500.00 for each offense and each day in which a violation of this Ordinance shall occur shall be deemed to constitute a separate offense. Any person or license violating any provision of this Ordinance twice in a 24-month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the County of Nicholas revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated.

SECTION X

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XI

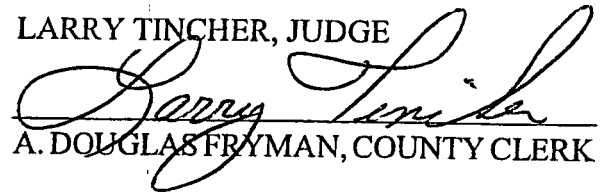
The Ordinance shall become effective upon its second reading, passage and publication.

COUNTY OF NICHOLAS, KENTUCKY

By: _____

LARRY TINCHER, JUDGE

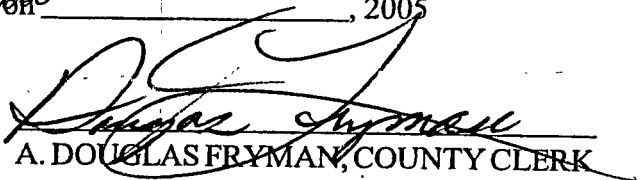
By:


A. DOUGLAS FRYMAN, COUNTY CLERK

First reading given: April 19, 2005

Second reading given: May 10, 2005

Published in The Flemingsburg Gazette, 2005


A. DOUGLAS FRYMAN, COUNTY CLERK

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ORDINANCE NO. _____

AN ORDINANCE RELATING TO AND IMPOSING ALCOHOLIC LICENSE FEES FOR THE PRIVILEGE OF BEVERAGE CONTROL TRAFFICKING IN ALCOHOLIC BEVERAGES IN NICHOLAS COUNTY, KENTUCKY

WHEREAS, certain areas of Nicholas County, Kentucky, have recently been voted "wet" in local option elections, and the Nicholas County Fiscal Court deems it necessary to impose license fees for the privilege of trafficking in alcoholic beverages in said areas, pursuant to KRS 243.060;

NOW THEREFORE BE IT ORDAINED by the Fiscal Court of the County of Nicholas, Commonwealth of Kentucky:

Section 1. Annual license fees for the privilege of trafficking in alcoholic beverages in "wet" areas of Nicholas County, Kentucky, are hereby imposed as follows: (Subject to credit for license fees paid to City of Carlisle for same privilege for same year)

- (a) Retail package license, per annum -- \$400.00
- (b) Retail malt beverage license, per annum -- \$150.00

Section 2. No person shall traffic in alcoholic beverages in this county until he has obtained an appropriate license to do so from the Commonwealth of Kentucky, and until he has paid the Nicholas County Clerk the license fee required by this ordinance and obtained a license from said Clerk. No license shall be issued without the approval of the county alcoholic beverage administrator.

Section 3. All licenses issued hereunder shall expire on June 30 of each year and each license shall be renewed on July 1 of each year.

Section 4. Any person who violates this ordinance shall be subject to penalty as provided by KRS 243.990 and may have his license suspended or revoked by the State Alcoholic Beverage Control Board as provided in KRS Chapter 243.

AN ORDINANCE RELATING TO AND IMPOSING LICENSE FEES FOR THE PRIVILEGE
OF TRAFFICKING IN ALCOHOLIC BEVERAGES IN NICHOLAS COUNTY, KENTUCKY

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Section 5. Should any part of this ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable and shall continue to be in full force and effect.

Section 6. This ordinance shall take effect July 1, 1983.

Submitted:

Joseph H. Umley
Nicholas County Attorney

Introduced for first reading June 1, 1983, for second reading June 13, 1983, and enacted this 13th day of June, 1983.

NICHOLAS COUNTY FISCAL COURT

By:

Reese Smoot
County Judge/Executive
Nicholas County, Kentucky

ATTEST:

Russell Scott
Clerk, Nicholas County Fiscal Court