

**OWSLEY COUNTY FISCAL  
COMMONWEALTH OF KENTUCKY COURT**

WHEREAS, a local option election was held on April,09 2013, pursuant to KRS Chapter 242 to address the issue as to whether the County of Owsley should permit the sale of alcoholic beverages within Owsley County; and

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

WHEREAS, based upon documented experiences of other governmental units in the Commonwealth of Kentucky, the Owsley Fiscal Court finds it necessary to regulate the use of alcoholic beverages within Owsley County in order to protect the health, safety, and welfare of the citizens of the County;

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of the County of Owsley, Commonwealth of Kentucky, as follows:

**SECTION ONE: GENERAL PROVISIONS**

**1.01 TITLE**

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

**1.02 DEFINITIONS**

The definitions contained in KRS 241.010 are adopted as the meaning of such words as used in this Ordinance.

**1.03 INCORPORATION OF STATE LAW**

A. The provisions of KRS Chapters 241, 242, 243, and 244, are hereby adopted as part of this Ordinance, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "County" means Owsley County, Kentucky.

B. 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.

C. 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.

D. All prohibitions, restrictions, and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the County.

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#### **1.04 SCOPE OF COVERAGE**

A. This ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverage" or "alcoholic beverages" shall mean 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 the County where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance or ordinances of the County or of any State statutes or regulations.

#### **1.05 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.

#### **1.06 NOTICE TO STATE ABC BOARD OF FEES LEVIED**

This ordinance is and shall be subject to the provisions of KRS 43.600. Owsley 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.

### **SECTION TWO: ADMINISTRATION**

#### **2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

Pursuant to KRS 241.110, the duties of the Owsley 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.

#### **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 Owsley 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 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.

### **2.03 RIGHT OF INSPECTION**

The County ABC Administrator, his designees/appointees and/or Owsley 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, Owsley County ABC Administrator shall simultaneously receive copies of all reports submitted by licensees to State Alcoholic Beverage Control Board.

### **2.04 OATH AND BOND OF LOCAL ABC ADMINSTRTOR 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.

## **SECTION THREE: LICENSING REGULATIONS**

### **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.

### **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.

### 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 type 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 (wine consumption on premises)	\$600.00 new \$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 \$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

F. CATERER'S LICENSE; FEES

- 1. As used in this section, unless the context requires and expressly state 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 customers' guests.
- 2. 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.
- 3. The caterer's license shall authorize the caterer to:
  - a. Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280 and 244.310.
  - b. 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.
  - c. Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and
  - d. 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.

4. The caterer license shall not cater alcoholic beverages at locations for which retail alcoholic beverages licenses or special temporary licenses have been issued.
5. The caterer license shall post a copy of the caterer's license at the location of the function for which alcoholic beverages are catered.
6. The name and license number of the caterer shall be painted, in a contrasting color, in a form prescribed by the Kentucky Administration Regulations, upon all vehicles used by the caterer to transport alcoholic beverages.
7. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section shall apply to the caterer license.
8. 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.
9. The fee for the caterer license shall be:

Type of License	Fee
Caterer License, per annum	\$800

**3.04 LICENSES PERMITTED**

In accordance with KRS 242.125, Owsley 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.

**3.05 REGULATIONS TO CONFORM TO STATE LAW**

All regulations which may be issued to administer KRS 242.125, this section of the Owsley 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.

**3.06 LICENSE TERM: RENEWAL: 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 applications and license renewal fees shall be due and payable on February 1, of each year.

### **3.07 PRO-RATION; REFUNDS PROHIBITED**

Pro-ration of fees shall be as provided for State licenses in KRS 243.090. In the event any licensee shall cease doing business for any reasons, no refund of the license shall be granted to such licensee.

### **3.08 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 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 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.

### **3.09 LOCATION OF BUSINESS RESTRICTED**

Licenses under this Ordinance shall not authorize the conduct of business in any place other than that specifically described in the original State application and license. Any additional



buildings or rooms attached to licensed premises and requiring separate service bars shall require a supplemental bar license.

### **3.10 APPLICATION; CONTENTS; EMERGENCY ACTION**

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

### **3.11 APPROVAL OR DENIAL OF APPLICATION**

A. Upon review of the application, the Administrator may approve the application if the Administrator determines that:

- (1) The applicant has complied with all requirements of the State Alcoholic Beverage Control law, as well as all regulatory provisions of this Ordinance.
- (2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220;
- (3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and
- (4) There are no other causes for denial of the license.

B. If the Administrator has reasonable ground to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the Administrator may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The Administrator shall have the right to order, and the applicant shall have the right to request an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by KRS Chapter 243.

### **3.12 PAYMENT OF FEES**

Upon approval of the application by the Administrator, the applicant shall pay to the County Treasurer the amount of the license fee provided in this ordinance in the form of a

certified check, money order or cash. Payment shall be held on deposit by the County pending State license approval and issuance of the license by the Administrator.

### **3.13 POSTING OF LICENSES; PUBLIC RECORD**

Each license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each license shall remain in the Administrator's office as part of the public record.

### **3.14 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

A. Under the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to provisions of the Kentucky Revised Statutes, and this ordinance, as they may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the County. Therefore, it is necessary that a licensee actually conduct the business, may suffer an interruption of business by situations not under the licensee's control, various exceptions to this dormancy rule are included in subsection (B).

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 Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the State 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 a period of dormancy is applied for or granted by the State, to the licensee, the licensee shall immediately notify the Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the Administrator and a fee shall be due and payable to the Administrator for the period the licensee was in dormancy in the same amount due had the license remained active for the same period.

C. Applications approved by the Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Extensions may be granted by the Administrator as he deems appropriate in exercise of sound discretion based on facts and circumstances surrounding each request.

D. Applications for renewal of licenses and payment of the license fee must be on file with the Administrator at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be canceled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The Administrator may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be

refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

### **3.15 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE**

A. Causes for refusal to issue or renew a license and for suspension or revocation of a license shall be the same as provided for State licenses according to KRS 243.450, 243.500, as well as violation of any ordinance regarding alcoholic beverage licensing, sales, the administration of licenses, or a licensee allowing conduct on the licensed premises which is prohibited by this Ordinance.

B. No license to sell alcoholic beverages shall be granted or renewed to any person or other entity delinquent in the payment of any taxes or fees due the County at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes or fees due the County. If a licensee 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 beverages shall be subject to revocation or suspension. The Administrator may, in his discretion, approve a license to sell after receiving from the County Clerk, a written statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

C. No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety percent (90%) of the total projected gross receipts from sales made at the licensed premises during the twelve (12) month period following the issuance of the license shall consist of the projected gross receipts from sales of alcoholic beverages. No retail package liquor shall be renewed for any premises unless ninety percent (90%) of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.

D. Appeals may be taken from decisions of the Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

## **SECTION FOUR: ADVERTISING AND GENERAL LICENSE REGULATIONS**

### **4.01 ADVERTISING RESTRICTIONS**

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 no larger than two and one-half (2½) 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 Ordinance.

C. It shall be unlawful for any person holding any license under this Ordinance 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 Ordinance shall be in compliance with this Ordinance, KRS 244.130, and any regulation promulgated pursuant to KRS 244.130.

#### **4.02 RETAIL SALES TO CERTAIN PERSONS PROHIBITED**

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

A. A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

B. A person actually or apparently under the influence of alcoholic beverages.

C. Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony within the preceding twelve (12) months.

#### **4.03 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION**

A. As used in KRS 244.083 and this section "premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

B. With regard to persons under 21 years of age:

1. Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

2. No person holding any license for on premises consumption of distilled Spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty-one

(21) years on the licensed premises unless such premises is a restaurant, grocery store, or hotel. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

3. Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.

4. The prohibitions set forth in subsections (1), (2), and (3) shall not apply to persons under the age of twenty-one (21) years of age who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working, and at no other time.

C. A licensee or any of his or her clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she:

1. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises; or

2. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverages.

D. In the event a violation occurs under the provisions of this section, the Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the Administrator, after a hearing, shall suspend or revoke said license.

D. No person under twenty-one (21) years of age shall possess for his own use, or purchase or attempt to purchase or have another purchase for him, any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him any alcoholic beverages.

E. No person under twenty-one (21) years of age shall misrepresent his age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.

F. No person under twenty-one (21) years of age shall use, or attempt to use, any false, fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

#### **4.04 LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS**

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

Persons under the age of twenty-one (21) years are subject to a fine up to one hundred dollars (\$100.00) if they:

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

#### **4.05 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING**

A. "Server" for purposes of this section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premises licensed for the sale of alcoholic beverages where alcoholic beverages are sold or dispensed by the drink or where malt beverages are sold for consumption on the premises and whose job duties include the sale, dispensing, or service of alcoholic beverages or the management of the licensed premises.

B. All persons employed in the selling and serving of alcoholic beverages shall participate in and complete an 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.

C. All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) 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.

D. The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the Administrator a record or file on each employee that shall contain the pertinent training information.

#### **4.06 THE CONDUCT OF PATRONS**

A. Any person or licensee which owns, operates, or controls any business establishment where alcoholic beverages are served or provided shall monitor the conduct of their patrons to assure that upon their departure from the licensed premises, they do not disturb the surrounding residents by engaging in such conduct as urinating in the street, fighting, drinking at the curb or directly outside the licensed premises, breaking bottles on the sidewalk or in the street, littering the immediate area with debris, creating excessive noise or trespassing upon private property in the immediate area, or operating a motor vehicle while under the influence of alcohol. Licensee shall conduct his business in a decent orderly manner, and shall not encourage a disorderly place of business, nor permit or engage in disorderly conduct.

B. A licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any governmental agency having jurisdiction thereof or any office or agency thereof.

#### **4.07 DRINK SPECIALS**

Any licensee shall be prohibited from offering reduced price specials (e.g. discounts, Two-For-One, happy hour etc.) from 6:00 p.m. to closing.

#### **4.08 ADULT ENTERTAINMENT**

Licensees cannot permit lewd, immoral or obscene entertainment, activities, or advertising materials on or inside the premises.

#### **4.09 BOUNDARY**

REMOVE

#### **4.10 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 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 (5) 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.

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

### **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 8:00 a.m. and 12:00 a.m. 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 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.

### **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 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 Owsley 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 hotels/motels/inns, such establishments may allow the consumption of alcoholic beverages during the hours allowable by law.

## **SECTION SIX: PENALTIES**

### **6.01 INFRACTION CONSTITUTES A MISDEMEANOR**

A. Any person, firm, LLC, corporation or other legal entity which 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).
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.
3. Any proceeding for the revocation or any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

B. In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the Administrator.

## **SECTION SEVEN: SEVERABILITY**

### **7.01 SEVERABILITY**

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 EIGHT: EFFECTIVE DATE**

**8.01 PASSAGE**

Introduced and given first reading at a special meeting of the Owsley County Fiscal Court on \_\_\_\_\_, 2013, and fully adopted after the second reading at the regular session of Owsley County Fiscal Court on \_\_\_\_\_, 2013. This ordinance shall take effect and be in full force and effect when passed, published, and recorded according to law but no sooner than \_\_\_\_\_.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Ronnie DeBord  
Owsley County Judge/Executive

ATTESTED:

\_\_\_\_\_  
Sid Gabbard  
Owsley County Clerk