

COMMONWEALTH OF KENTUCKY
TRIGG COUNTY FISCAL COURT

ORDINANCE NO. 10-0-01

A COMPREHENSIVE REGULATORY ORDINANCE FOR
THE SALE AND DISTRIBUTION OF ALCOHOLIC
BEVERAGES WITHIN THE COUNTY OF TRIGG,
KENTUCKY.

WHEREAS, based upon documented experiences of other
governmental units in the Commonwealth of Kentucky, the Trigg
Fiscal Court finds it necessary to regulate the use of
alcoholic beverages within Trigg 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 Trigg, Commonwealth of Kentucky, as follows:

SECTION 1: GENERAL PROVISIONS

1.01 TITLE

This ordinance shall be known and may be cited as
the Alcoholic Beverage Control Ordinance of Trigg 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 Trigg
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.

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(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.

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 DECLARATION OF ECONOMIC HARDSHIP

The Fiscal Court of Trigg County, Kentucky, pursuant to KRS 243.072, has determined that an economic hardship exists within Trigg County, Kentucky. Factors in this determination include, but are not limited to, its high unemployment, slow rate of economic growth, loss due to plant closings, and a significant number of vacant business buildings within the county.

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TRIGG COUNTY CLERK

SECTION 2: ADMINISTRATION

2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR - OFFICE AND FUNCTIONS

(A) There is hereby created the office of Alcoholic Beverage Control Administrator (hereinafter "the Administrator"). The Administrator shall be the Trigg County Judge/Executive or his designee. The duties of the Administrator are to carry out the provisions of this ordinance and all other state and local laws pertaining to the sale of alcoholic beverages in the County of Trigg.

(B) Any person desiring to obtain a license to sell or dispense wholesale or retail distilled spirits or malt beverages shall make application to the Administrator on appropriate forms provided by the Administrator. If, in the judgment of the Administrator, the applicant has complied with all requirements of the state and local alcoholic beverage control law, an appropriate license shall be issued.

(C) The Administrator shall, in the exercise of sound discretion, refuse to issue or renew an alcoholic beverage license to any person who has not conducted his business in a decent, orderly manner, or who is known to conduct or encourage a disorderly place of business or who permits or engages in disorderly conduct, or who has been convicted of any violation of any criminal or penal law, except minor traffic violations, during the two (2) years immediately preceding his application. It is hereby deemed and declared to be in the best interest of public health, welfare and safety that the Administrator shall have discretion to issue such licenses as he deems will stimulate the local economy and promote the general welfare of the County of Trigg.

(D) All revenue derived from license fees or fines herein provided shall be paid to the Trigg County Treasurer for the benefit of the County of Trigg, and said revenue shall become a part of the general funds of the county.

(E) The Administrator shall have access at all reasonable times for inspection of all books and records required to be maintained by licensees and shall

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simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

(F) The Administrator shall make an annual written report of his office to the Fiscal Court.

SECTION 3: LICENSING REGULATIONS

3.01 NUMBER OF LICENSES

The number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors and wholesale distilled spirits distributors licenses issued in the County shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243, or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

3.02 DISTILLED SPIRITS; FEES

The County shall have the power and authority to issue the following kinds of licenses upon proper application and the payment of prescribed fee.

- (A) Quota retail package license, per annum, \$420.00.
- (B) Quota retail drink license, per annum, \$630.00.
- (C) Non-quota Type 1 drink license, per annum, \$1,000.00.
- (D) Non-quota Type 2 retail drink license, per annum, \$1,000.00.
- (E) Non-quota Type 3 retail drink license, per annum, \$300.00.
- (F) Limited restaurant license, per annum, \$630.00.
- (G) Non-quota Type 4 retail malt beverage drink license, per annum, \$400.00.
- (H) Non-quota retail malt beverage package license, per annum, \$400.00.
- (I) Special temporary license, per event, \$90.00.
- (J) Supplemental bar license
 - (1) Non-quota Type 2, \$830.00.
 - (2) Limited restaurant, \$780.00.
 - (3) Limited golf course, \$720.00.
 - (4) Quota retail drink, \$620.00.
 - (5) Non-quota Type 3, \$310.00.
- (K) Limited golf course license, \$1,400.00.

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STATE ALCOHOLIC BEVERAGE CONTROL BOARD

**3.03 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED;
FEE**

The County shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than fifty (50) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy-five percent (75%) of their gross revenue from the sale of food.

3.04 MALT BEVERAGE CONSUMPTION ON PREMISES

The Fiscal Court has determined that it is desirable and appropriate to regulate conduct on premises licensed to sell malt beverages at retail. The County finds that while a number of licensed premises may be suitable for the sale of malt beverages to be removed for consumption elsewhere, there are also a number of premises which are not suitable or appropriate for consumption of malt beverages on the premises. Examples include, but are not limited to, package distilled spirits and wine stores, grocery stores, and premises which do not have adequate facilities for the congregation of customers who are consuming on premises, such as availability to food, adequate restrooms, and at least a minimum of seating for customers. Malt beverage consumption on the premises may never the less be allowed by the licensee on a restaurant premises having a seating at tables for not less than thirty (30) persons and which receives no less than fifty percent (50%) of its total food sales and alcohol beverage sales from the sale of food. Further, any non-restaurant premises, that allows consumption of malt beverages on the premises must receive no less than forty percent (40%) of its sales from the sale of food items.

The intent of this section is to regulate and establish standards of conduct on premises selling malt beverages under license. This section shall not be construed as imposing any limitation upon the number of malt beverage licenses issued pursuant to this Ordinance. Nothing contained

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in this section shall be construed as prohibiting a licensee from selling malt beverages upon the licensed premises subject to the regulations stated above.

3.05 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED

This Ordinance shall not be construed to authorize Sunday sales of alcoholic beverages.

3.06 LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this Ordinance shall be made for each license year, which, in order to coincide with the State license year, shall begin the first day of February 2014 and extend through the last day of January 2015 and every year thereafter. Applications for renewal are to be filed with the Administrator no less than fifteen (15) nor more than forty-five (45) days prior to expiration.

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, CONTINUANCE, LICENSE REPLACEMENT

(A) The assignment, transfer, continuance, pledge or hypothecation of licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650, and 243.660. An approval of the State, under those statutes, shall be deemed an approval by the County. Non-approval by the State shall be deemed non-approval by the County. No license may be sold or otherwise transferred (including transfer to any premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgment of the Administrator is given. A transfer fee of \$100.00 shall be paid to the County.

(B) When a license has been lost or destroyed, the Administrator may issue a duplicate or replacement license upon payment of a fee of \$100.00.

3.09 LOCATION OF BUSINESS RESTRICTED

Licenses under this Ordinance shall not authorize the conduct of business in any place other than that

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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.

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(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

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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,

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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 Quota Retail Package 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 Quota Retail Package License 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.

3.16

EXCEPTIONS FOR U.S.G.A. GOLF COURSES

(A) There is excepted from Sections 3.03 and 3.04 any nine (9) or eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course. All other provisions of this Ordinance are applicable.

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(B) Any applicant under this Section would pay the fees set out in 3.02.

SECTION 4: SALE OF ALCOHOLIC BEVERAGES

4.01 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the County unless first procuring a license under the provisions of this Ordinance, all state statutes, and all regulations adopted pursuant thereto. This Ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action which obviates the State license shall also operate to invalidate the corresponding County license.

4.02 HOURS OF SALE

(A) Premises for which there has been granted a Quota Retail Package License shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday and Christmas.

(B) Premises for which there has been granted a license for all retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday and Christmas. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with subsection.

(C) Any licensee for sale of alcoholic beverages by the drink or package who violates the preceding sections shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the Administrator.

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(D) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented, or leased to anyone during closing hours for a party or for any other purposes.

(E) Wholesalers shall not deliver alcoholic beverages on Sunday.

4.03 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS

A licensee of a premises holding a Non-Quota Type 2 License or a Non-Quota Type 3 License shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State law or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State law, and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the Administrator is hereby authorized to confiscate the alcoholic beverages.

4.05 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

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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.

4.06 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 be a habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

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(D) 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.

4.07 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.

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- (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.

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(E) 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.

(F) 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.

(G) 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.

4.08 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.

4.09 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

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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 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.

4.10 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.

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(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.

4.11 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.

4.12 ADULT ENTERTAINMENT

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

SECTION 5: REGULATORY LICENSE FEE

5.01 REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the County for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the County. The Fiscal Court shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the County for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the County. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under the provisions of this Ordinance.

(B) The regulatory license fee shall be six percent (6%) for the licensing year beginning January 1, 2010, and continuing thereafter until amended or repealed.

5.02 PAYMENT

Payment of the regulatory license fee shall accompany tax returns approved by the Administrator and the County Treasurer. The return shall be submitted to the

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Administrator by the 15th day of each month for the preceding month's sales. The fraction of the fee required under the provisions of this Ordinance, represented by one divided by the number of months for which the County license was issued, shall be deducted each month as a credit.

5.03 FAILURE TO PAY

Failure to pay the monthly remittance within ten (10) days after the due date shall constitute a violation of this Ordinance.

5.04 INTEREST ON LATE PAYMENTS

Interest shall be assessed upon any past due payments at the rate of twelve percent (12%) per annum.

5.05 ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain 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 State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the Administrator. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the Administrator, the County Treasurer, or any of their authorized representatives.

SECTION 6: GENDER NEUTRALITY

6.01 GENDER NEUTRALITY

The terms he, his, or any other masculine description utilized in this ordinance shall be interchangeable with the terms she, her, or any other feminine description and vice versa.

SECTION 7: PENALTIES

7.01 PENALTY FOR NONPAYMENT

If the holder of any license shall fail to pay the regulatory license fee imposed by this Ordinance within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assess on the second offense, and an automatic penalty of two

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hundred dollars (\$200.00) shall be assess on the third offense. In addition to the monetary penalty, the Administrator may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

7.02 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 8: SEVERABILITY

8.01 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,

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distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 9: EFFECTIVE DATE

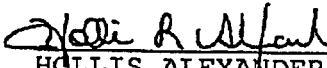
9.01 PASSAGE

Introduced and given first reading at a special meeting of the Trigg County Fiscal Court on November 23, 2009, and fully adopted after the second reading at the regular session of Trigg County Fiscal Court on December _____, 2009. This ordinance shall take effect and be in full force and effect when passed, published, and recorded according to law but no sooner than January 1, 2010.


9.02 PASSAGE OF AMENDMENT

Introduced and given first reading at the regular session of the Trigg County Fiscal Court on November 4, 2013, and fully adopted after the second reading at the regular session of Trigg County Fiscal Court on November 18, 2013. The amendments to this ordinance shall take effect and be in full force and effect when passed, published, and recorded according to law.

DATED: November 18th, 2013


HOLLIS ALEXANDER
Trigg County Judge/Executive

ATTESTED:


DORRIS MCGILL
Trigg County Clerk

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TRigg Co.

COMMONWEALTH OF KENTUCKY
TRIGG COUNTY FISCAL COURT

ORDINANCE NO. _____

A COMPREHENSIVE REGULATORY ORDINANCE FOR
THE SALE AND DISTRIBUTION OF ALCOHOLIC
BEVERAGES WITHIN THE COUNTY OF TRIGG,
KENTUCKY.

WHEREAS, based upon documented experiences of other
governmental units in the Commonwealth of Kentucky, the Trigg
Fiscal Court finds it necessary to regulate the use of
alcoholic beverages within Trigg 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 Trigg, Commonwealth of Kentucky, as follows:

SECTION 1: GENERAL PROVISIONS

1.01 TITLE

This ordinance shall be known and may be cited as
the Alcoholic Beverage Control Ordinance of Trigg 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 Trigg
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.

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.

SECTION 2: ADMINISTRATION

2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR - OFFICE AND FUNCTIONS

(A) There is hereby created the office of Alcoholic Beverage Control Administrator (hereinafter "the Administrator"). The Administrator shall be the Trigg County Judge/Executive or his designee. The duties of the Administrator are to carry out the provisions of this ordinance and all other state and local laws pertaining to the sale of alcoholic beverages in the County of Trigg.

(B) Any person desiring to obtain a license to sell or dispense wholesale or retail distilled spirits or malt beverages shall make application to the Administrator on appropriate forms provided by the Administrator. If, in the judgment of the Administrator, the applicant has complied with all requirements of the state and local alcoholic beverage control law, an appropriate license shall be issued.

(C) The Administrator shall, in the exercise of sound discretion, refuse to issue or renew an alcoholic beverage license to any person who has not conducted his business in a decent, orderly manner, or who is known to conduct or encourage a disorderly place of business or who permits or engages in disorderly conduct, or who has been convicted of any violation of any criminal or penal law, except minor traffic violations, during the two (2) years immediately preceding his application. It is hereby deemed and declared to be in the best interest of public health, welfare and safety that the Administrator shall have discretion to issue such licenses as he deems will stimulate the local economy and promote the general welfare of the County of Trigg.

(D) All revenue derived from license fees or fines herein provided shall be paid to the Trigg County Treasurer for the benefit of the County of Trigg, and said revenue shall become a part of the general funds of the county.

(E) The Administrator shall have access at all reasonable times for inspection of all books and records required to be maintained by licensees and shall

simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

(F) The Administrator shall make an annual written report of his office to the Fiscal Court.

SECTION 3: LICENSING REGULATIONS

3.01 NUMBER OF LICENSES

The number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors and wholesale distilled spirits distributors licenses issued in the County shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243, or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

3.02 DISTILLED SPIRITS; FEES

The County shall have the power and authority to issue the following kinds of distilled spirits licenses upon proper application and the payment of prescribed fee.

	License Type	Fee
(A)	Retail package license, per annum	\$400.00
(B)	Hotel/Motel/Inn or Restaurant Retail Drink license, per annum	\$600.00

3.03 MALT BEVERAGE LICENSES; FEES

The County shall have the power and authority to issue malt beverage licenses upon proper application and the payment of prescribed fee:

	License Type	Fee
(A)	Retailer's license, per annum	
	New Applicants	\$400.00
	Applicants for Renewal	\$150.00

3.04 RESTAURANT WINE LICENSE; FEES

(A) A restaurant wine license may be issued to an applicant who is an owner or lessee of a restaurant which

receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) persons at tables.

(B) A restaurant wine license shall authorize a licensee to purchase, receive and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesalers.

(C) The fee for a restaurant wine license shall be six hundred dollars (\$600.00) per annum, for a new applicant, and four hundred dollars (\$400.00) per annum for a renewal license.

3.05 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

The County shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than fifty (50) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy-five percent (75%) of their gross revenue from the sale of food.

3.06 MALT BEVERAGE CONSUMPTION ON PREMISES

The Fiscal Court has determined that it is desirable and appropriate to regulate conduct on premises licensed to sell malt beverages at retail. State law makes no distinction between package sales of malt beverages and sale of malt beverages for consumption on the premises. The County finds that while a number of licensed premises may be suitable for

the sale of malt beverages to be removed for consumption elsewhere, there are also a number of premises which are not suitable or appropriate for consumption of malt beverages on the premises. Examples include, but are not limited to, package distilled spirits and wine stores, grocery stores, and premises which do not have adequate facilities for the congregation of customers who are consuming on premises, such as availability to food, adequate restrooms, and at least a minimum of seating for customers. Malt beverage consumption on the premises may never the less be allowed by the licensee on a restaurant premises having a seating at tables for not less than thirty (30) persons and which receives no less than fifty percent (50%) of its total food sales and alcohol beverage sales from the sale of food. Further, any non-restaurant premises, that allows consumption of malt beverages on the premises must receive no less than forty percent (40%) of its sales from the sale of food items.

The intent of this section is to regulate and establish standards of conduct on premises selling malt beverages under license. This section shall not be construed as imposing any limitation upon the number of malt beverage licenses issued pursuant to this Ordinance. Nothing contained in this section shall be construed as prohibiting a licensee from selling malt beverages upon the licensed premises subject to the regulations stated above.

3.07 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED

This Ordinance shall not be construed to authorize Sunday sales of alcoholic beverages.

3.08 LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this Ordinance shall be made for each license year, which, in order to coincide with the State license year, shall begin the first day of May and extend through the last day of April of the succeeding year. Applications for renewal are to be filed with the Administrator no less than fifteen (15) nor more than forty-five (45) days prior to expiration.

3.09 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.

3.10 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT

(A) The assignment, transfer, continuance, pledge or hypothecation of licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650, and 243.660. An approval of the State, under those statutes, shall be deemed an approval by the County. Non-approval by the State shall be deemed non-approval by the County. No license may be sold or otherwise transferred (including transfer to any premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgment of the Administrator is given. A transfer fee of \$25.00 shall be paid to the County.

(B) When a license has been lost or destroyed, the Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.00.

3.11 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.

3.12 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.

3.13 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.

3.14 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.

3.15 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.

3.16 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.

**3.17 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 4: SALE OF ALCOHOLIC BEVERAGES

4.01 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the County unless first procuring a license under the provisions of this Ordinance, all state statutes, and all regulations adopted pursuant thereto. This Ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action which obviates the State license shall also operate to invalidate the corresponding County license.

4.02 HOURS OF SALE

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(B) Premises for which there has been granted a license for other retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with subsection.

(C) Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight each day

except that no such sale shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(D) Any licensee for sale of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the Administrator.

(E) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented, or leased to anyone during closing hours for a party or for any other purposes.

(F) Wholesalers shall not deliver alcoholic beverages on Sunday.

4.03 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS

A licensee of a premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall

be locked and closed off from the public during said time period.

4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State law or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State law, and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the Administrator is hereby authorized to confiscate the alcoholic beverages.

4.05 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.

4.06 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 be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) 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.

4.07 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.

(E) 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.

(F) 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.

(G) 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.

4.08 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.

4.09 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 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.

4.10 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.

4.11 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.

4.12 ADULT ENTERTAINMENT

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

4.13 BOUNDARY

No licenses for the sale of alcoholic beverages shall be issued for any premises that are located within 200 feet of a building used primarily as a church or for classrooms of a school. The measurement shall be taken in a straight line from the nearest outside walls of the subject buildings.

~~**4.14 SMOKING PROHIBITED**~~

~~Smoking is hereby prohibited inside all public places that sell alcoholic beverages by the drink.~~

SECTION 5: REGULATORY LICENSE FEE

5.01 REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement

to the County for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the County. The Fiscal Court shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the County for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the County. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under the provisions of this Ordinance.

(B) The regulatory license fee shall be six percent (6%) for the licensing year beginning January 1, 2010, and continuing thereafter until amended or repealed.

5.02 PAYMENT

Payment of the regulatory license fee shall accompany tax returns approved by the Administrator and the County Treasurer. The return shall be submitted to the Administrator by the 15th day of each month for the preceding month's sales. The fraction of the fee required under the provisions of this Ordinance, represented by one divided by the number of months for which the County license was issued, shall be deducted each month as a credit.

5.03 FAILURE TO PAY

Failure to pay the monthly remittance within ten (10) days after the due date shall constitute a violation of this Ordinance.

5.04 INTEREST ON LATE PAYMENTS

Interest shall be assessed upon any past due payments at the rate of twelve percent (12%) per annum.

5.05 ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain 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 State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the Administrator. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the Administrator, the County Treasurer, or any of their authorized representatives.

SECTION 6: GENDER NEUTRALITY

6.01 GENDER NEUTRALITY

The terms he, his, or any other masculine description utilized in this ordinance shall be interchangeable with the terms she, her, or any other feminine description and vice versa.

SECTION 7: PENALTIES

7.01 PENALTY FOR NONPAYMENT

If the holder of any license shall fail to pay the regulatory license fee imposed by this Ordinance within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assess on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assess on the third offense. In addition to the monetary penalty, the Administrator may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

7.02 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 8: SEVERABILITY

8.01 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 9: EFFECTIVE DATE**9.01 PASSAGE**

Introduced and given first reading at a special meeting of the Trigg County Fiscal Court on November 23, 2009, and fully adopted after the second reading at the regular session of Trigg County Fiscal Court on December 7th, 2009. This ordinance shall take effect and be in full force and effect when passed, published, and recorded according to law but no sooner than January 1, 2010.

DATED: Dec 9, 09

Stanley H. Humphries
STANLEY H. HUMPHRIES
Trigg County Judge/Executive

ATTESTED:

Wanda H. Thomas

WANDA H. THOMAS
Trigg County Clerk