

ORDINANCE NO. ____ - 2024

1ST READING 12-13-24

2ND READING 1-10-25

**AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGE CONTROL
ESTABLISHING AN ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR,
ESTABLISHING LICENSE FEES, PROHIBITING CERTAIN ACTIVITIES BY
ALCOHOLIC BEVERAGE LICENSEES, AND SETTING PENALTIES FOR
VIOLATION.**

WHEREAS, the County of Menifee, Kentucky, by and through a majority of the registered voters, permits the presence of alcohol, manufacturing of alcohol, and sales of alcohol within the corporate limits of the County of Menifee so long as such is done in accordance with all applicable local, state, and federal law; and

WHEREAS, the County of Menifee, Kentucky therefore has established uniform regulations and requirements for the licensing and regulation of alcoholic beverages, manufacturing, and sales pursuant to authorization under KRS Chapters 241 through 244, and all other applicable law;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MENIFEE COUNTY, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

ARTICLE I. GENERAL

(A) This chapter shall be known as and may be cited as the “Alcoholic Beverage Control Ordinance” of the County of Menifee (hereinafter referred to as the “County”).

(B) The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Chapters 241 through 244 and/or applicable law.

(C) The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Laws (Chapters 241, 242, 243, and 244 of Kentucky Revised Statutes) of the Commonwealth of Kentucky, and all amendments and supplements thereto.

(D) This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent, or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance of the county, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(E) The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243, and 244) and all amendments and supplements thereto

are adopted so far as applicable as a portion of this chapter, except as otherwise lawfully provided herein.

ARTICLE II. LICENSE REQUIREMENTS

A. County Licenses

For the privilege of causing, permitting and engaging in the actions, business, and transactions Authorized thereby in regard to traffic in alcoholic beverages in the county and pursuant to the authority of KRS 243.060, there is hereby established a corresponding county license for each of the state licenses described in KRS 243.060. The fee for each county license shall be as set out in the schedule set forth below. In the event KRS 243.060 shall hereafter be amended to authorize additional county licenses, the fee for each county license shall be the maximum fee provided in the statute as amended.

1. Quota retail package license (per annum)	\$1,000.00
2. Quota retail drink license (per annum)	\$1,000.00
3. Special Temporary License (per event)	\$166.00
4. Non-quota type 2 retail drink license (per annum)	\$1,000.00
5. Non-quota type 3 retail drink license (per annum)	\$300.00
6. Limited restaurant license (per annum)	\$1,400.00
7. Limited golf course license (per annum)	\$1,400.00
8. Qualified historic site license	\$1,030.00
9. Non-quota retail malt beverage package license (per annum)	\$400.00
10. Non-quota type 4 retail malt beverage drink license (per annum)	\$400.00

B. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

C. The holder of a nonquota retail malt beverage package license may obtain a nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

D. The county license types listed in Section 6 above shall have the same requirements and privileges for corresponding state licenses as provided in KRS Chapters 241 to 244.

E. Expiration of License; Proration of Fees

All county licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after April 30 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half (1/2) the amount of the full fee for an annual license of that type.

F. Payment of License Fees; Delinquency

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this Ordinance.

G. Refund of Fees

(1) Should any licensee under this Ordinance be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the county shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the County ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(2) In the event a violation of this Ordinance occurs that results in the suspension or revocation of the license, the county shall not be required to refund any portion of the license fee.

H. Regulatory License Fee

(1) Pursuant to KRS 243.075, there is hereby imposed a Regulatory License Fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the County ABC Administrator. The County's Regulatory License Fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the Regulatory License Fee shall be five percent (5%) of gross sales. The Regulatory License Fee shall be five percent (5%) on gross retail sales of package malt beverages.

(2) Payment of said regulatory fee shall be remitted to the County ABC Administrator, who shall transmit all fees to the County Clerk, or his designee, for deposit into the appropriate designated account. The County may use said fees as permitted by law, including but not limited to, any cost of 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 fees or licenses permitted by law, except that a credit against a regulatory license fee in the County shall be allowed in an amount equal to any license fee shall be based on paperwork required by the local and/or state ABC Administrator, which may include but is not limited to tax returns and financial statements. Said paperwork and payment will be due according to the schedule set forth

by the County ABC Administrator, or his designee, which may be set at, but is not limited to, time periods consisting of a monthly or quarterly billing by the local ABC office and/or the County.

(3) Failure to pay such remittance within ten (10) days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.

(4) Penalty for failure to file a return and pay remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).

(5) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

I. Disposition of Fees and any other type of payment to the County

The County ABC Administrator shall transmit all fees and any other types of payment made to the County, upon collection, to the County Clerk, or his/her designee, for deposit into the appropriate designated account.

ARTICLE III. COUNTY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

(1) Pursuant to KRS 241.110, there is hereby created the duties of the County of Menifee Alcoholic Beverage Control Administrator.

(2) The County Judge Executive shall serve as the County Alcoholic Beverage Control Administrator (hereinafter referred to as County ABC Administrator), unless the Menifee County Judge Executive shall appoint someone else to fill the position pursuant to KRS 241.110.

(3) The County Alcohol Beverage Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this ordinance.

(4) The functions of the County ABC Administrator shall be the same with respect to the county licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations.

(5) To prevent potential conflicts of interests, no person shall be a County ABC Administrator, an investigator, or an employee of the county, under the supervision of the County ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(6) The County ABC Administrator shall have authority delegated by the Fiscal Court, and as authorized under KRS Ch. 241 through 244. The County ABC Administrator, along with

any designated investigator(s), shall have full police powers of law enforcement, and their jurisdiction shall be, the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of any city that has appointed its own city ABC administrator. The County ABC Administrator and his investigators may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(7) The County ABC administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150 and the County ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

(8) The County ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Section 228 of the Constitution.

ARTICLE IV. APPLICATION AND MATINENANCE OF LICENSE

A. Advertisement

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in the newspaper used by the County for legal notices under KRS 424.120. The notice shall include the following:

(1) The advertisement shall comply with KRS 243.360 and state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the licenses sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement.

B. Form of Application

(1) All licenses granted under this chapter shall be approved by the County ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Kentucky ABC Board and/or the County, both of which may be amended and supplemented from time to time by each respective agency.

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

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

(3) Each application shall be accompanied by a certified check, cashier check, or money order for the amount of the license fee, less the fifty dollars (\$50.00) application fee.

(4) In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the County ABC Administrator. In addition to the information contained in the application, the County ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

C. Other Conditions

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

(1) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the County, fees of any type, or charges due to any department of the county at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the County. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

(2) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the County ABC Administrator, or any member of the County's staff, or any state ABC Administrator or staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a county or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this Ordinance.

Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the Ordinance and applicable statutes allow for such payments in settlement.

D. Denial of Licenses

(1) The County ABC Administrator may deny to issue or renew a county license for the same reasons as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any county ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(2) An applicant who has been denied a license by the County ABC Administrator may appeal the refusal to the state Board pursuant Section K below.

E. Form of License

All county licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

- (a) The name and address of the licensee;
- (b) The number of the license;
- (c) The type of license;
- (d) A description by street and number, or otherwise, of the licensed premises;
- (e) The expiration date of the license;
- (f) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

F. Change of Information

(1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the County ABC Administrator with ten (10) days of the change.

(2) Since a number of licenses issued by the county are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the County ABC Administrator. The County ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

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

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

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

G. Renewal of License

(1) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the County ABC Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, county or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew exiting lease; provided that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the County ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the County ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

(2) The renewal by the County ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

H. Lost or Destroyed License.

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

I. Revocation or Suspension.

(1) Any license may be revoked or suspended by the County ABC Administrator if the licensee shall have violated any of other provisions of KRS Ch. 241 to 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the county heretofore in existence or authorized by the terms of KRS Ch. 241 to 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed is disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the County ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(2) A license may be revoked for any of the reasons for which the County ABC Administrator would have been required to refuse a license if the facts had been known.

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

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

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

(c) If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

(d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this Ordinance, or acts of Congress relative to taxation or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof.

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

operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

J. Proceedings for Revocation or Suspension of License

(1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the County ABC Administrator, the County ABC Administrator may institute proceedings to revoke or suspend any license granted under this Ordinance. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(2) A decision of the County ABC Administrator revoking or suspending a license may be appealed to the Board as provided in KRS 241.140 and Article III.

(3) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the County ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the County ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the County ABC Administrator.

(4) When a license has been revoked or suspended, the former licensee may, with prior approval of the County ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(5) Appeal from the decision of the County ABC Administrator revoking or suspending a license shall be to the state Board pursuant to Section K below. The timely filing of an appeal shall stay any penalty imposed by the order until conclusion of the Board appeal and any subsequent court appeals.

(6) If a license is revoked or suspended by an order of the County ABC Administrator, and the decision is not appealed, the licensee shall suspend all operations authorized under his or her license upon effective date of the order. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at suspend all operations authorized under this license upon effective date of the order.

K. Appeals

(1) Appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing a notice of appeal with the Board within thirty (30) days after the decision or order of the County ABC Administrator is mailed or delivered by personal service. The notice of appeal shall specify the county administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the County ABC Administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the county administrator shall be governed by KRS Chapter 13B.

(2) As provided by law no appealed County ABC Administrator order or decision, or resulting state Board order, shall become effective or final until all Board appeals, court appeals, or appeal times shall have been exhausted. When a Board order becomes final and effective, the County ABC Administrator, shall enter such orders and take such action as required by the final order of the Board.

L. Transfer or Assignment

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the County ABC Administrator.

M. Review of License; Books, Records and Reports

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

(2) Every licensee under this Ordinance shall keep and maintain, upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages

in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the County ABC Administrator and such county employees who may assist the County ABC Administrator in his or her review.

N. Dormancy

(1) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

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

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

ARTICLE V. HOURS OF SALE

A. Hours of Sale

(1) A licensee herein shall be permitted to sell deliver alcoholic beverages between the hours of 6:00 a.m. until 12:00 a.m. (midnight) Monday – Saturday.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

A. Gambling

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises unless permitted by KRS 243.505. Dice, slot machines, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

B. Prevention of Disorderly Premises; Security

The licensee shall be responsible for keeping the premises orderly and must maintain adequate security for the premises to ensure the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

C. Prizes and Premiums Prohibited

It shall be unlawful for a licensee to give away, or offer to give away, anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

D. Treating Prohibited

It shall be unlawful for the licensee under this Ordinance to give away any alcoholic beverage in any quantity for free or for less than for less than paid or current wholesale cost, unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's) or products are sampled at educational event authorized by 804 KAR 1:110 and 804 KAR 11:030, or a bona fide "close out" sale approved by the state Administrators.

E. Intoxicated Persons, Drunkenness

The licensee shall not sell, give, or deliver any alcoholic beverages to any person who appears to a reasonable person to be actually or apparently under the influence of alcoholic beverages, controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity.

F. Underage Sales

The licensee shall not sell, give, or deliver any alcoholic beverages to any person who is under 21 years of age, or permit same.

G. Sign Requirements-Notice to Persons under the Age of Twenty-One (21)

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

Persons under the age of twenty-one (21) are subject to a fine of 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.

H. License to be Displayed

(1) Pursuant to the requirements set forth in KRS 243.895, the Licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

I. Legal Transactions for Wholesalers, Distributors and Retail

No wholesaler or distributor shall sell any alcoholic beverages to any person in the county for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.

J. Employment Restrictions

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

- (1) Has been convicted of any felony within the last two (2) years unless permitted by KRS 244.090(2);

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years unless permitted by KRS 244.090(2);

(3) For the purposes of selling and serving alcoholic beverages, is under the age of twenty (20) years, unless the person employed is at least eighteen (18) years of age and under the supervision of a person twenty (20) years of age or older; or

(4) Within two (2) years prior to the date of his or her employment, has had any county license under this chapter revoked for cause.

K. Lavatory Facilities Required

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

L. Nudity and Adult Entertainment Activities Prohibited

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the county.

M. Cause for Revocation

Violation of this and any other Article shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation or suspension of County licenses.

ARTICLE VII. MINORS

A. No person under 21 years of age shall enter onto any licensed premises for the purpose of acquiring alcoholic beverages. No person under 21 years of age shall possess for personal use or purchase or attempt to purchase or have another purchase for the person, any alcoholic beverages.

B. Except as permitted by KRS 244.085 and 804 KAR 5:070, no person under the age of 21, may remain on any premises licensed for the package sale of alcoholic beverages unless in the company of a parent or guardian. No person under the age of 21, may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(5) and 804 KAR 5:070. The prohibition contained in this subsection shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store,

drugstore, and other business types listed in KRS 244.085 and by the state Board in 804 KAR 5:070.

C. No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this Ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

D. No person being the owner or occupant or otherwise in possession or control of any property located within the county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

E. It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090.

ARTICLE VIII. CONSUMPTION AT PREMISES PROHIBITED

A. Consumption at Package Store Prohibited.

(1) No licensee of a retail package store shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries, breweries, and small farm wineries as permitted by provisions in KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050 , 804 KAR 1:070, and 804 KAR 1:110.

ARTICLE IX. ENFORCEMENT

A. Enforcement

County Sherriff Department officers and the County ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

ARTICLE X. PENALTIES

A. Penalties

(1) In addition to any criminal prosecution instituted in Menifee District Court against an alleged violator, the County ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the County ABC Administrator, who shall then transmit the fines to the County Clerk for deposit in the appropriate designated account.

(2) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Menifee County Court System, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE XI. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory Responsible Beverage Service Training

(1) All persons employed in the selling *and/or* serving of alcoholic beverages shall participate in and complete a Responsible Beverage Serving ("RBS") program acceptable to the County ABC Administrator.

(2) All persons required to complete training under division (a) above shall complete that training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

(3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the County ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XII. SIDEWALK CAFÉ PERMIT

A. Sidewalk Café Permit

(1) Licensees may request a permit to use sidewalk as an adjunct to the primary and adjacent licensed premises to serve food and alcoholic beverages there. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.

(2) Any licensee/restaurant that is licensed under this Ordinance and the provisions of the state ABC laws, may, upon application to the local ABC Administrator, ask permission to expand the operation of the business/restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

B. Conditions for Sidewalk Café Permit

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises;

(7) The permit for sidewalk café may not be assigned or transferred.

C. Other Requirements Applicable to Sidewalk Cafes

No sidewalk café permit shall be effective unless the licensee has filed with the County Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the County Attorney and the County's Safety Coordinator. The county shall be named an additional insured in the policy required. Such insurance policy shall further provide

expressly that it may not be canceled except upon ten (10) day's written notice (or more) filed with the ABC Administrator and the County Attorney.

ARTICLE XIII. IMPEMETATION OF ORDINANCE PROVISIONS; SEVERABILITY

A. Implementation of Changes in Ordinance Provisions

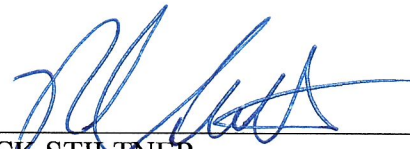
The County Fiscal court may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

B. Severability

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

C. Effective Date of Ordinance Provisions

The Ordinance shall take effect immediately after its Passage and Publications as required by law.



RICK STILTNER,
MENIFEE COUNTY JUDGE EXECUTIVE

ATTEST:



CHRISTINE JOHNSON, FISCAL COURT CLERK

1-10-25

DATE

