

BOYD COUNTY FISCAL COURT  
Second Reading  
ORDINANCE NO. 05-07 (3)

AN ORDINANCE OF THE FISCAL COURT OF BOYD COUNTY, KENTUCKY  
AMENDING ORDINANCE NO. 05-07, AS AMENDED IMPOSING A THREE AND ONE  
HALF (3 ½) PERCENT REGULATORY LICENSE FEE ON GROSS SALES OF  
ALCOHOLIC BEVERAGES

WHEREAS, the Boyd County Fiscal Court previously adopted Ordinance No. 05-07 (1) amending Ordinance No. 05-07 so as to repeal an eight percent (8%) regulatory license fee upon gross sales of alcoholic beverages.

WHEREAS, the Boyd County Fiscal Court desires to reestablish the regulatory license fee at three and one half percent (3 ½ %) of gross sales of alcoholic beverages

BE IT HEREBY ORDAINED BY THE FISCAL COURT OF BOYD COUNTY, KENTUCKY AS FOLLOWS:

BOYD COUNTY FISCAL COURT ORDINANCE NO. 05-07 (1) IS HEREBY REPEALED AND HELD FOR NAUGHT

Article IV of Boyd County Ordinance No. 05-07 be and hereby is reinstated to the extent that there shall hereafter be due and owing a regulatory license fee of three and one half percent (3 ½%) of gross sales of alcoholic beverages by any licensee as authorized by KRS 243.075

Any and all previous Ordinances in conflict herewith be and hereby are repealed but only to the extent of such conflict.

Except as amended above Ordinance No. 05-07 shall remain in full force and effect.

Should any part of this Ordinance be declared void, unconstitutional, unenforceable or otherwise stricken the remaining parts shall not be effected thereby.

The Ordinance shall become effective upon its adoption, re-adoption and publication according to law.

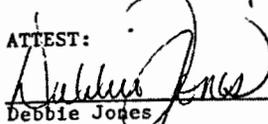
  
WILLIAM "BUD" STEVENS  
BOYD COUNTY JUDGE EXECUTIVE

FIRST READING April 16, 2013

SECOND READING MAY 6, 2013

PUBLISHED MAY 9, 2013

ATTEST:

  
Debbie Jones  
Boyd County Clerk

BOYD COUNTY FISCAL COURT  
Second Reading  
ORDINANCE NO. 05-07 (2)

AN ORDINANCE OF THE FISCAL COURT OF BOYD COUNTY, KENTUCKY  
AMENDING ORDINANCE NO. 05-07, AS AMENDED, TO ALLOW FOR REGULAR  
SUNDAY SALES OF ALCOHOLIC BEVERAGES

WHEREAS, Boyd County Ordinance Number 05-07, as amended, does not permit the sale of alcoholic beverages after 2:00 a.m. on Sundays except by special permit.

WHEREAS, the Boyd County Fiscal Court has determined to permit regular Sunday sales;

BE IT HEREBY ORDAINED BY THE FISCAL COURT OF BOYD COUNTY, KENTUCKY  
AS FOLLOWS:

Article V of Boyd County Ordinance 05-07, as amended, by and thereby is amended with subsection (a) being stricken and replaced by the following:

- (a) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink between the hours of 6:00 a.m. and 2:00 a.m. Monday through Saturday and on Sunday between the hours of 1:00 p.m. and 2:00 a.m.

Any and all previous Ordinances in conflict herewith be and hereby are repealed but only to the extent of such conflict.

Except as amended above Ordinance No. 05-07 shall remain in full force and effect.

Should any part of this Ordinance be declared void, unconstitutional, unenforceable or otherwise stricken the remaining parts shall not be effected thereby.

The Ordinance shall become effective upon its adoption, re-adoption and publication according to law.

  
WILLIAM "BUD" STEVENS  
BOYD COUNTY JUDGE EXECUTIVE

FIRST READING April 16,

SECOND READING MAY 6,

PUBLISHED MAY 9, 2013

AT EST: \_\_\_\_\_

ORDINANCE NO. 05-07 (3)

AN ORDINANCE OF THE FISCAL COURT OF BOYD COUNTY, KENTUCKY  
AMENDING ORDINANCE NO. 05-07, AS AMENDED, <sup>AR</sup>  
IMPOSING A THREE AND ON HALF (3 ½) PERCENT  
REGULATORY LICENSE FEE

WHEREAS, the Boyd County Fiscal Court previously adopted Ordinance No. 05-07 (1) amending Ordinance No. 05-07 so as to repeal an eight percent (8%) regulatory license fee upon gross sales of alcoholic beverages.

WHEREAS, the Boyd County Fiscal Court desires to reestablish the regulatory license fee at three and one half percent (3 ½ %) of gross sales of alcoholic beverages  
BE IT HEREBY ORDAINED BY THE FISCAL COURT OF BOYD COUNTY, KENTUCKY  
AS FOLLOWS:

BOYD COUNTY FISCAL COURT ORDINANCE NO. 05-07 (1) IS HEREBY REPEALED  
AND HELD FOR NAUGHT

Article IV of Boyd County Ordinance No. 05-07 be and hereby is reinstated to the extent that there shall hereafter be due and owing a regulatory license fee of three and one half percent (3 ½%) of the gross sale of alcoholic beverages by any licensee as authorized by KRS 243.075

Any and all previous Ordinances in conflict herewith be and hereby are repealed but only to the extent of such conflict.

Except as amended above Ordinance No. 05-07 shall remain in full force and effect.

Should any part of this Ordinance be declared void, unconstitutional, unenforceable or otherwise stricken the remaining parts shall not be effected thereby.

The Ordinance shall become effective upon its adoption, re-adoption and publication according to law.

FIRST READING JULY 3, 2007  
SECOND READING AND FINAL APPROVAL 07/17/07

ORDINANCE NO. 05-07

AN ORDINANCE OF BOYD COUNTY, KENTUCKY, RELATED TO THE LICENSING OF RESTAURANTS AND DINING FACILITIES FOR THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK WHEN SUCH FACILITIES SEAT A MINIMUM OF ONE HUNDRED (100) PERSONS AND DERIVE A MINIMUM OF SEVENTY PERCENT (70%) OF GROSS RECEIPTS FROM THE SALE OF FOOD.

WHEREAS, KRS 242.185(6) authorizes, by petition in accordance with KRS 242.020, a County in which prohibition is in effect, to hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food; and

WHEREAS, KRS 242.185(6) further authorizes the local government of a jurisdiction in which such alcoholic beverage sales are authorized to adopt regulations licensing such sales along with any other reasonable administrative regulations as may be necessary for the enforcement or administration of that statute; and regulations adopted pursuant to that authority shall conform to the requirements of KRS 241.140; and

WHEREAS, the local option election was conducted pursuant to KRS 242.185(6) and approved; and it is now the responsibility of the County to adopt regulations reasonably calculated to assure the sale of alcoholic beverages consistent with the legislative intent; and

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

**SECTION ONE:** A new ordinance is hereby created to read as follows:

**ARTICLE I. IN GENERAL**

Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the

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licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185(6), and other applicable law, for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the County shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, including bar-type stools and year-round patio seating, but not temporary chairs available only seasonally or as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty. Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

Definitions:

The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Scope:

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

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

## **ARTICLE II. LICENSES**

### Scope:

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185(6). A Caterer's License, as authorized in KRS 243.033, may be issued to a caterer that complies with the provisions of KRS 243.033 and the other provisions of this Ordinance.

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

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

(b) The County ABC Administrator may from time to time appoint such additional personnel as is necessary to assist him or her in the administration of this ordinance.

(c) The salary for the office of County ABC Administrator, if any, together with the salaries of any other personnel assisting the County ABC Administrator, shall be fixed from time to time by the Boyd County Fiscal Court.

(d) 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, except that no amendment to these regulations proposed by the County ABC Administrator may be less stringent than the statutes relating to

Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the County ABC Administrator shall become effective until it has first been appropriately approved by the County Commission.

(e) No person shall be a County ABC Administrator, an Investigator or an employee of the County under the supervision of the County ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.

(f) The County ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(g) Should the County ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require such person to appear in person at the offices of any state or local law enforcement agency in the county for the purpose of having his or her fingerprints taken.

(h) The County ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00).

(i) Appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the County ABC Administrator. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the County ABC Administrator shall be governed by KRS Chapter 13B.

#### ARTICLE IV. APPLICATION/LICENSE

(a) All licenses granted under this Ordinance shall be approved by the County ABC Administrator. Applications for the issuance of new licenses and for renewals of existing

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licenses shall be in writing and upon the forms provided by the ABC Board and the County of

Boyd, as amended and supplemented from time to time. 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 ABC Board and the County of Boyd, including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If

Boyd resident indicate when residence was established;

(6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;

(7) Extent of stock ownership;

(8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(c) Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(d) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the County ABC Administrator.

(e) All County licenses shall be in such form as may be prescribed by the County Commission and shall contain:

- (1) The name and address of the licensee;

- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license;
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(f) All licenses approved by the County ABC Administrator and issued by the County of Boyd shall begin on July 1 of any year and shall expire on June 30 of the following year.

(g) 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) Any licenses issued after January 1 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 that for a period of six months.

(i) In the event a violation of this ordinance occurs that requires the revocation of the license, the County shall not be required to refund any portion of the license fee.

Fees Pursuant to KRS 243.070:

(a) The annual County License fee for the sale of wine, distilled spirits, and/or malt beverages shall be \$1,400.00. This fee may be amended from time to time if not inconsistent with the applicable state statutes.

(b) The County ABC Administrator shall transmit fees upon collection to the County

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Treasurer to be deposited into the appropriate designated account. County Licenses shall be issued by the County ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

Fees Pursuant to KRS 243.075

Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each person or entity licensed by the County ABC Administrator, whether under KRS 242.185(6) or under KRS 242.184(4) and Article II of this Ordinance. The regulatory fee shall be eight (8%) percent of gross sales of alcoholic beverages.

Refund of License fees:

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the County shall refund to it the proportionate part of the license fee for the period during which it 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 agent or employee of the licensee.

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the County ABC Administrator after he or she shall be satisfied as to the facts; provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said

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duplicate.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the County ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the 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 of any rules or regulations of the County heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the County ABC Administrator in the exercise of his sound discretion deems sufficient.

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

(c) Any license may be revoked or suspended for the following causes:

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

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

(3) If within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2)

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violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any of the clerks, servants, agents or employees of the 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.

(4) 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 Department of Revenue made in pursuance thereof

(5) 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.

Notice to Licensee; Surrender of License; Hearing:

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

Administrator.

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

(c) Appeal from the decision of the County ABC Administrator shall be to the ABC Board.

(d) If a license is revoked or suspended by an order of the County ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

Transfer or Assignment:

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the County ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the County ABC Administrator.

Refusal of License:

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

(a) Causes for refusal to issue or renew a license and for suspension or revocation of a County license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any County ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(b) If the applicant has done any act for which a revocation of license would be authorized; or

(c) If the applicant has made any false material statement in his application.

Review of License:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the

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drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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 annual license renewal. In the event the 70% food requirement is not met during any particular period, the County ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the County ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the 70% minimum food requirement has been met.

Change of Information:

(a) For corporations which are holders licenses issued by the County, stock ownership changes in such corporation consisting of 10% or more of the corporation's outstanding shares shall be reported to the County ABC Administrator. The County ABC Administrator shall investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(b) Transfers of more than fifty percent (50%) of the total stock shall require a new license.

(c) The following information will be required concerning any new shareholder of 10% or more of outstanding shares in a corporation holding an interest in alcoholic beverage license:

- (1) Name and address;
- (2) Nature of interest;

(3) Whether or not a citizen of the United States;

(4) Date of birth;

(5) Date residence was established in Kentucky, if a resident of Kentucky. If a Boyd, resident indicate when residence was established;

(6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;

(7) Extent of stock ownership;

(8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

Dormancy:

(a) Except as provided below, any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the County ABC Administrator.

The provisions of subsection (a) above 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 governmental agency under power of eminent domain (including when the acquisition is voluntary, or under threat of eminent domain), or loss of lease on the licensed premises. Within ninety (90) days of discontinuing use of the license, the licensee shall furnish to the County ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the ninety (90) days of inactivity, and setting forth any of the reasons set forth herein. The County ABC Administrator may grant an extension of the dormancy with the license continuing

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to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the date of notice to the County ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the County ABC Administrator deems appropriate in exercise of his sound discretion.

Renewal of License:

Applications for renewal of licenses shall be filed with the County ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period, except for excusable neglect. The fee for renewal shall be \$250.00

Approval of Premises:

The County ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the County building inspector, and any and all other inspections required by the Kentucky Building Code.

Delinquent Taxes or Fees:

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the County at the time of the 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. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the County at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Books, Records and Reports:

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(a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the County ABC Administrator and such County employees who may assist the County ABC Administrator in his review.

(b) For the purpose of assisting the County ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the County ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the County ABC Administrator.

**ARTICLE V. HOURS FOR SALE AND DELIVERY**

(a) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 a.m. and 2:00 a.m. There shall be no sales or dispensing of distilled spirits, wine and/or malt beverages by the drink on Sunday between the hours of 2:00 a.m. and midnight.

(b) The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.

**ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS**

(a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(b) It shall be unlawful for any licensee licensed under this Ordinance to have or

maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Boyd County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Sheriff or the County ABC Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(e) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

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

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

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

(1) Enter licensed premises to buy, or have served to them, alcoholic

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beverages.

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(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) 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.

(i) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) or more than fifty dollars (\$50.00). KRS 243.895.

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

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his or her business any

person who:

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- (1) Has been convicted of any felony within the last two (2) years;
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;
- (3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute;
- (4) Within two (2) years prior to the date of his employment, has had any County license under this Ordinance revoked for cause.

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

#### **ARTICLE VII. ENFORCEMENT**

All local police officers and the County ABC Administrator are authorized to enforce this Ordinance for alleged violations.

##### Investigation and Inspection of Premises:

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

##### Penalties:

The following penalties shall be in addition to any criminal prosecution instituted in Boyd District Court against an alleged violator and fines hereunder shall be payable to the

The County ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the County Treasurer to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail 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, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

**ARTICLE VIII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING**

(a) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete an employer-provided responsible beverage service training program, which must be pre-approved in writing by the County ABC Administrator and which must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication.

(b) 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 not less than once every three years

**SECTION TWO: SEVERABILITY**

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

**SECTION THREE: EFFECTIVE DATE**

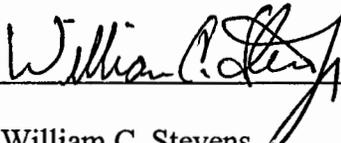
Prohibition is lifted for the limited purpose hereinabove effective July 17, 2007

GIVEN FIRST READING AND PASSED. July 3, 2007

GIVEN SECOND READING AND PASSED July 17, 2007

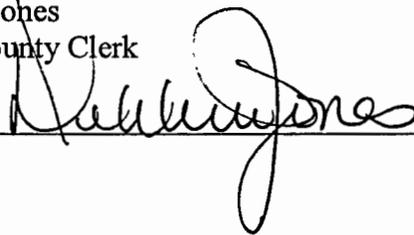
PUBLISHED BY NEWSPAPER July 11, 2007

APPROVED:

  
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William C. Stevens,  
Boyd County Judge Executive

ATTEST:  
Debbie Jones  
Boyd County Clerk

  
\_\_\_\_\_

RECEIVED  
2007 AUG 21 A 9:08  
ALCOHOLIC  
BEVERAGE CONTROL

FIRST READING 08/07/2007  
SECOND READING 08/07/2007

BOYD COUNTY FISCAL COURT

ORDINANCE NO. 05-07 (02)

AN ORDINANCE AMENDING BOYD COUNTY FISCAL COURT  
ORDINANCE 05-07

**WHEREAS**, the Boyd County Fiscal Court previously adopted County Ordinance No. 05-07 on July 17, 2007, relating to the licensing of restaurants and dining facilities for the sale of alcoholic beverages by the drink when such facilities seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of gross receipts from the sale of food;

**WHEREAS**, Section I, Article IV (Fees Pursuant to KRS 243.075) of Ordinance No. 05-07 imposes a regulatory license fee of eight percent (8%) upon the gross receipts of each person or entity licensed by the County ABC Administrator, whether under KRS 242.185(6) or under KRS 242.184(4) and Article II of Ordinance No. 05-07.

**WHEREAS**, Boyd County Fiscal Court wishes to repeal the section imposing a regulatory license fee in its entirety.

**BE IT NOW THEREFORE ORDAINED** by the Fiscal Court of Boyd County, Kentucky that Boyd County Ordinance No. 05-07 be and hereby is amended so as Section I, Articles IV (Fees Pursuant to KRS 243.075) is hereby repealed in its entirety.

**FURTHER**, Boyd County Fiscal Court wishes to amend **Article II. Licenses** to read as follows, such amendments shown by underscoring all newly inserted language and by a single broken line through all deleted language:

Scope:

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185(6).

(A) Caterer's License: Caterer's License, as authorized in KRS 243.033, may be issued to a caterer that complies with the provisions of KRS 243.033 and the other provisions of this Ordinance

(B) Entertainment: Any licensee under this section desiring to provide entertainment to patrons of such licensed premise must first obtain a separate entertainment license by application to the County ABC Administrator under this section in the form approved by the County ABC Administrator or his designee.

(1) Term of such license shall be concurrent with the retail drink license.

(2) Fee for such license shall be one hundred dollars (\$100.00):

(3) This license shall be subject to the same sanctions as the retail drink license.

The purpose of this section is to provide County review of the type of such entertainment to promote the public health, safety, morals and welfare, and such licenses will not be unreasonably withheld, but periodic review will occur to protect those interests of the community set out herein.

If any section, sentence, clause or portion of this Ordinance Amending Boyd County Fiscal Court Ordinance 05-07 is for any reason declared illegal, unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions thereof.

GIVEN FIRST READING AND PASSED.

08/07/2007

GIVEN SECOND READING AND PASSED

08/07/2007

PUBLISHED BY NEWSPAPER

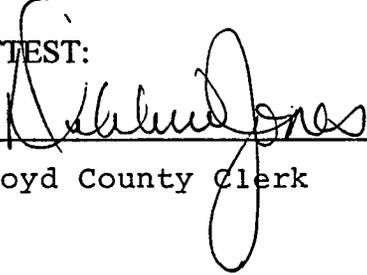
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APPROVED:



Boyd County Judge Executive

ATTEST:



Boyd County Clerk