COMMONWEALTH OF KENTUCKY
FLEMING COUNTY FISCAL COURT
ORDINANCE NO. 20-1317

ORDINANCE ADOPTING REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL

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

WHEREAS, the County of Fleming, 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 FLEMING COUNTY, KENTUCKY, that the following regulations and requirements are hereby adopted as set forth below:

ALCOHOLIC BEVERAGES

ARTICLE I- IN GENERAL

A. Title

This chapter shall be known as the "Alcoholic Beverage Control Ordinance" of Fleming County, Kentucky.

B. Purpose

The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization of KRS Ch. 241 through 244.

C. Definitions

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

D. Scope

This chapter 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 or ordinances of the county or of any statutes of the state relating to violations pertaining to alcoholic beverages.

E. Adoption

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to 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 following schedule. 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. The Fleming County Fiscal Court adopts the following license fee schedule as defined in KRS 243.060:

1. Quota retail package license, per annum: $1000.00
2. Quota retail drink license, per annum.....$1,000.00
3. Non-quota type 2 retail drink license, per annum.....$1,000.00
4. Non-quota type 3 retail drink license, per annum.....$300.00
5. Special temporary drink license per event..... $166.66
6. Special Sunday retail drink license, per annum .....$.300.00
7. Non-quota retail malt beverage package license, per annum.....$400.00
8. Non-quota type 4 retail malt beverage drink license, per annum.....$400.00
9. Limited restaurant license, per annum.....$1,400.00
10. Limited golf course license, per annum: $1,400.00
11. Authorized public consumption license, per annum..... $ 250.00
12. Qualified historic site license, per annum.....$1,030.00

B. Fee Increases:

Per KRS, the fee for the following license types may not be increased by more than five percent
(5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this section are still subject to the maximum amounts listed for those licenses in section A above.

(1) Quota retail package license: retail package liquor license;

(2) Quota retail drink license: retail drink license;

(3) Non-quota type 2 retail drink license: restaurant drink license;

(4) Non-quota retail malt beverage package license: retail malt beverage license;

(5) Non-quota type 4 retail malt beverage drink license: retail malt beverage license;

(6) Limited restaurant license; and

(7) Limited golf course license.

C. Supplemental License Fees:

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.

The holder of a non-quota retail malt beverage package license may obtain a Non-quota type 4 malt beverage drink license for a fee of fifty dollars ($50). The holder of a Non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license for a fee of fifty dollars ($50).

D. Other:

A county shall not issue county licenses or impose fees under this section to any person who holds a city license issued under KRS 243.070.

E. Certain special licenses defined.

1. Special Temporary licenses. A special temporary license may be issued only as set out in KRS. 243.260. Unless inconsistent with KRS 243.260 a special temporary license shall have the same privileges and restrictions of a quota retail drink license and an NQ4 retail malt beverage licensee at the designated premises not to exceed thirty (30) days.

2. A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.

3. Sunday Sales. Special license required for Sunday sales. No licensee shall offer alcoholic beverages for sale at any time between 12:00 midnight on Sunday and 6:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales.

4. Caterer's License. The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

5. Private Club. "Private club" means a nonprofit social, fraternal, military, or political organization, club, or nonprofit or for-profit entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;

(a) Membership qualifications shall be consistent with their national organization, and a policy for courtesy membership or any temporary membership privilege will not be tolerated. The existence of such a membership policy shall be a violation of this Ordinance.

(b) Should membership qualifications be altered the club making such changes shall furnish a copy of the proposed alteration withing ten (10) days to the Local Administrator. Failure to furnish such change shall constitute a violation of this Ordinance.

(c) Private Clubs licensed to sell alcoholic beverages will provide to the Local Administrator a list of its officers and notify the Local Administrator of any change thereto. Club officers for the licensing year shall not have been convicted of any felony within the past five years or two misdemeanors or offenses directly or indirectly attributable to the use of intoxicating liquors within the past two years.

F. Expiration of license; proration of fee

1. All county licenses, except special temporary licenses, shall be valid for a period of no more than one year and shall begin and end on the dates specified by the Department of Alcoholic Beverage Control Administrative Regulations for Fleming County. When any person applies for a new license authorized by KRS Chapter 241 to 244 and CDO Chapter 2.5 he or she shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

2. The renewal by Fleming County of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

G. 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.

H. Refund of fees

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 Local 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.

In the event a violation of this chapter 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.

I. Regulatory License fee

1. As permitted by KRS 243.075, and pursuant to adoption of this Ordinance, there is hereby proposed a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located outside the limits of the City of Flemingsburg but within the geographical boundaries of Fleming County licensed to sell alcoholic beverages. As of the time of adoption of this Ordinance, the 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. Thereafter, pursuant to KRS 243.075 the Fleming County Fiscal Court shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the county for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the County. Should the County fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed until such time as the Fleming County Fiscal Court shall adjust the fee.

3. Payment of such regulatory fee shall be remitted to the Local ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the county for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the county. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, except that a credit against a regulatory license fee in the county shall be allowed in an amount equal to any license fee imposed by the county pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax return approved for such use by the Fleming County Fiscal Court. The return and payment are due no later than by the end of the month immediately following each calendar quarter.

4. Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects' licensee to suspension or revocation.

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

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

J. Disposition of fees

The Local ABC Administrator shall ensure fees collected in connection with this Ordinance are properly and timely transmitted to the City of Flemingsburg Finance Department pursuant to the Interlocal Agreement to be entered by separate Resolution. The manner of transmission of fees shall be detailed in the Interlocal Agreement between the City of Flemingsburg and Fleming County Fiscal Court. Further, the City of Flemingsburg shall provide a quarterly report of fees collected and expenditures from those fees. The City of Flemingsburg shall disperse fees as according to the net percentages below on an annual basis.

Fees collected from the sales of alcoholic beverages shall be used in the following manner:

1. All administrative expenses, including but not limited to,
   (a) Salaries of Local ABC Administrator and staff
   (b) Office equipment and supplies directly related to administration and regulation of alcoholic beverage control laws,
   (c) Office space, utilities, communication and technology expenses for administration and regulation,
   (d) Travel expenses incurred for policing, administration and regulation of alcoholic beverages,
   (e) Any additional costs directly related to the administration and regulation of alcoholic beverages.
2. All fees collected in excess of expenses included above shall be dispersed as follows:

(a) Fifty percent (50%) to the City of Flemingsburg

(b) Fifty percent (50%) to Fleming County Fiscal Court

(c) Fees shall be used for policing expenses and any regulatory or administrative expenses directly related to alcohol related incidents and responses.

3. Upon adoption of the Ordinance for the County and adoption of an ordinance for the City, there will be an Interlocal Agreement between the City of Flemingsburg and Fleming County Fiscal court to further detail the disposition of fees as detailed above.

ARTICLE III. OFFICE OF THE LOCAL ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

1. Pursuant to KRS 241.160, there is hereby created the office of Local Alcoholic Beverage Administrator.

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

3. The Local ABC Administrator may from to time appoint such additional personnel as is necessary to assist him or her in the administration of this chapter.

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

5. The functions of the Local 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 Local 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 Local ABC Administrator shall become effective until the Fleming County Fiscal Court has first appropriately approved it.

6. No person shall be a Local ABC Administrator, an Investigator or an employee of the city and/ or county under the supervision of the Local ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.

7. The Local ABC Administrator shall have all authority as authorized under KRS Ch. 241 through 244. The Local ABC Administrator, and the ABC Administrator's

investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

8. Should the Local 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, LLC or other business organization, has a criminal record, he shall have the authority to require such person to appear in person at the Fleming County Sheriff Department for the purpose of having his or her fingerprints taken.

9. The Local ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution.

B. Appeals

1. Appeals from the orders of the Local 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 Local ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the Local ABC Administrator shall be governed by KRS Chapter 13B.

2. When any decision of the Local ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the county, and the ABC Board shall have made a decision regarding such appeal or protested application, the Local ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

ARTICLE IV. APPLICATION AND MAINTENANCE OF LICENSE

A. Advertisement

1. 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 a newspaper meeting the requirements of KRS Ch. 424.

(a) The advertisement shall 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 license is sought, and the type of license for which application is made.

(b) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

B. Application fee

A nonrefundable application fee of fifty dollars ($50.00) shall be paid with the filing of the application for a county license. If the license is granted, the application fee shall be credited against the initial license fee.

C. Form of application

1. All licenses granted under this chapter shall be approved by the Local 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 ABC Board and the Fleming County Fiscal Court, as amended and supplemented from time to time.

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 ABC Board and the Fleming County Fiscal Court, 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 residence was established in Kentucky, if a resident of Kentucky. If Fleming County resident indicate when residence was established;

(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 chapter;

(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, cash or a postal or express 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 Local ABC Administrator. The Fleming County Fiscal Court has adopted a statement of guidelines and priorities for the issuance of licenses and, in order to determine the extent to which applications may further or impede the objectives of those guidelines, the Fleming County Fiscal Court may, by municipal order, adopt a questionnaire to be submitted to applicants for licenses. Upon adoption of the questionnaire, it shall become a part of the application process. The initial questionnaire adopted by the Fleming County Fiscal Court is a part of this chapter and incorporated herein as Quota Package Application Questionnaire. The questionnaire may be altered, expanded, supplemented or replaced by municipal order of the Fleming County Fiscal Court hereafter. In addition to the information contained in the application and any county ordered questionnaire, the Local 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.

D. Other conditions

1. In addition to any other inquiries, conditions or considerations required or permitted by law;

(a) The Local ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the County Building Inspector, Fleming County Health Department, State Fire Marshal and comply with various other regulations adopted by the Fleming County Fiscal Court related to property and building specifications, maintenance, and various County Ordinances that are not specifically listed herein.

(b) The premises to be licensed must have a Certificate of Occupancy in compliance with Section 111.2 of the most recent publication of the Kentucky Building Codes.

(c) The Certificate of Occupancy must be displayed in a conspicuous place on the premises.

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

(e) No license to sell alcoholic beverage 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 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.

(f) No person, whether an applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the Local ABC Administrator, or any member of his or her 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 Local ABC Administrator 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 section. This section shall not be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the chapter and applicable statutes allow for such payments in settlement.

2. The Fleming County Fiscal may contract with a qualified inspector to conduct inspections as required above.

E. Form of license.

1. All county licenses shall be in such form as may be prescribed by the Fleming County Fiscal Court and 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 name and address of the owner of the building in which the licensed premises are located;

(f) The expiration date of the license;

(g) 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.

2. All licenses shall comply with minimum requirements of KRS.

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 Local ABC Administrator within 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 Local ABC Administrator. The Local 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.

(a) 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.

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

i. Name and address;

ii. Nature of interest;

iii. Whether or not a citizen of the United States;

iv. Date of birth;

v. Date residence was established in Kentucky, if a resident of Kentucky. If a Fleming County, resident indicate when residence was established;

vi. 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;

vii. Extent of stock or company ownership;

viii. 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.

(c) This information shall be filed with the Local 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 temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the Local 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, city 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 Local 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 Local 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 Local 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 Local 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 Local ABC Administrator per KRS 243.490 if the licensee shall have violated any of the provisions of KRS Ch. 241 through 244, or administrative regulation of the ABC Board relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages or of the Department of Revenue relating to the 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 Fleming County Fiscal Court, or this chapter 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 through 244 to be created, when an

agent, servant, or employee of the licensee committed the violation, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the Local 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 Local ABC Administrator would have been required to refuse a license if the facts had been known.

3. Any license may be revoked or suspended for the following causes:

(a) Conviction of the licensee or the licensee's agent, servant, or employee for selling any illegal alcoholic beverages on the licensed premises.

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

(c) Conviction of the licensee or any of the licensee's agents, servants, or employees of:

(i) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(ii) Two (2) misdemeanors directly or indirectly attributable to the use of alcoholic beverages within two (2) consecutive years; or

(iii) Any felony.

(d) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any related administrative regulations promulgated by the Department of Revenue.

(e) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages.

(f) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, 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 gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This subsection shall not apply to:

(i) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;

(ii) The operation of a pari-mutuel system for betting, where authorized by law;

(iii) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or

(iv) Special temporary raffles of alcoholic beverages under KRS 243.036.

(g) Conviction of the licensee, the licensee's agents, servants, or employees for:

(i) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;

(ii) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or

(iii) Knowingly receiving stolen property upon the licensed premises.

(h) Failure to comply with the terms of a final order of the board.

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 Local ABC Administrator, the Local ABC Administrator may institute proceedings to revoke or suspend any license granted under this chapter. 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. The specific procedures to be followed in hearings on actions for revocation or suspension shall be prescribed by the Fiscal Court of Fleming County by local order. Such order shall be maintained on file in the office of the Local ABC Administrator and a copy furnished with any notice of proposed revocation or suspension sent to a licensee. If the Fleming County Fiscal Court shall fail to adopt such municipal order, the procedures shall be those set out in the Kentucky Administrative Procedure Act (KRS Chapter 13B).

3. A decision of the Local ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

4. 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 Local ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Sheriff, at the request of the Local ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the Local ABC Administrator.

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

6. Appeal from the decision of the Local ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

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

K. 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 Local ABC Administrator and not then until a payment of one hundred dollars ($100.00) shall be made to the Local ABC Administrator.

L. Refusal of license; guidelines for approval of quota licenses

1. The Local 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 or her application.

2. In the case of quota licenses, before approving an application, the Local ABC Administrator is hereby directed to consider, in addition to the factors set out in KRS 243.450, 243.490 and 243.500, and any other factors the Administrator determines in his or her discretion to be reasonable and pertinent to the license application, the following criteria:

(a) Ownership. Fleming County places great value on business owners who are invested in the community.

(b) Economic Impact. Fleming County desires businesses which make the most positive impact on the community, in number of jobs, payroll, property investment and revenues to the community.

(c) Site of Business. Fleming County is interested in serving all geographic areas of the county. Therefore, the county does not wish to cluster all licensed ABC outlets in one area.

(d) Aesthetics. Fleming County is committed to protecting the character and beauty of our community.

(e) Capital. Fleming County values businesses that demonstrate their ability to financially support and sustain their viability.

(f) Public support of licensed business in the area. Fleming County intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the county.

3. An applicant who has been refused a license by the Local ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

M. Review of license; books, records, audio and visual recordings, 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 Local ABC Administrator 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 Local ABC Administrator may at any time come upon the premises of any licensee

and examine the books, audio and visual recordings, 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 Local 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 Local 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 chapter 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 Local ABC Administrator and such employees who may assist the Local ABC Administrator in his or her review.

For the purpose of assisting the Local ABC Administrator in enforcement of this chapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the Local ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the Local ABC Administrator.

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 Local ABC Administrator, the license shall be surrendered to the Local ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the Local 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 Local 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 Local 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 Local ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the Local ABC Administrator deems appropriate in exercise of his or her sound discretion.

ARTICLE V. HOURS FOR SALE AND DELIVERY

A. Hours for sale and delivery

1. A licensee for distilled spirits, wine or malt beverages by the drink shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages between the hours of 6:00 a.m. and until 12:00 a.m. (midnight) on each day of the week, except Sunday.

2. A licensee authorized to sell distilled spirits and wine or malt beverage by the drink may sell between the hours of 1:00 p.m. on Sunday until 9:00 p.m. on Sunday if licensee has a Special Sunday retail drink license.

3. Retail package distilled spirits and wine sales and package malt beverage sales shall be permitted from 6:00 a.m. until 12:00 a.m. (midnight) each day of the week, except that such package sales shall not be permitted during the hours of 12:00 a.m. (midnight) and 1:00 p.m. on Sunday, or between the hours of 9:00 p.m. on Sunday and 6:00 a.m. on Monday.

4. A licensee may remain open until from 12:00 a.m. (midnight) until 1:00 a.m. on January 1 of each year. If New Year's Eve falls on a Saturday, the licensee must have a Special Sunday Sales retail sales licenses to remain open until 1:00 a.m. on Sunday January 1st.

5. If New Year's Eve falls on a Sunday, a licensee authorized to sell distilled spirits and wine or malt beverage by the drink may sell between the hours of 1:00 p.m. on Sunday until 1:00 a.m. on Monday if licensee has a Special Sunday retail drink license.

6. A licensee may sell on all election days between the hours of 6:00 a.m. until 12:00 a.m.(midnight).

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. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

B. Radio receiving apparatus

It shall be unlawful for any licensee licensed under this chapter 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 Fleming 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 Local ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

C. Security

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

D. Prizes prohibited

It shall be unlawful for the licensee under this chapter 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 nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.

E. Drunkenness.

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 sell alcoholic beverages to any person who appears to be a reasonable person to be actually or apparently under the influence of alcoholic beverages. No licensee shall permit any person who appears to a reasonable person to be 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 to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

F. Underage sales

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all id's to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

G. Sign requirements

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 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. Pursuant to KRS 243.895

1. The licensee, except holders of special temporary licenses, 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 eight and one-half (8-1/2) inches by eleven (11) inches in size, 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.

I. Legal transactions for wholesalers, distributors and retail

1. 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.

2. Retail licensee must purchase alcoholic beverages from wholesaler or distributor, or special agent or solicitor, who is licensed to sell alcoholic beverages to the particular purchaser.

J. Employment restrictions

No licensee shall knowingly employ in connection with the licensed business any person who:

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 alcoholic beverages 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. However, at a premise licensed solely with a non-quota retail malt beverage package license, a person that is at least eighteen (18) years of age may be employed to sell packaged malt beverages so long as said person is under the supervision of a person (20) years of age or older.

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. Happy hour restrictions

Licensees shall not offer reduced drink specials (e.g. two-for-one, happy hours) after the hour of 10:00 p.m. until closing.

L. Lavatory facilities required

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

M. 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.

N. Drive-through outlets prohibited

No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

O. Cause for revocation

Violation of this Ordinance shall subject the licensee to penalties provided in this chapter and shall be cause for revocation of license.

P. Retail Premises Not to Be Disorderly – Per KRS 244.120

1. A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.

2. Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or create a risk through:

(a) Engaging in fighting or in violent, tumultuous, or threatening behavior;

(b) Making unreasonable noise;

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;

(e) Creating a public nuisance which is further defined by KRS 241.010 (39);

(f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or

(g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or local government, or by state administrative regulations, for the licensed premises.

ARTICLE VII. MINORS

A. Possession by minors prohibited; no person shall aid possession by minors.

1. Except as specifically authorized under KRS Ch. 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

2. As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this division (b) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

3. No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licensees, as set out in Sec. 2.5-76, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

4. 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.

5. 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 244.087.

ARTICLE VIII. CONSUMPTION ON PREMISES PROHIBITED

A. Consumption on licensed package alcoholic beverages on premises prohibited

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless said person or entity shall also have a drink license conferring the privilege of consumption on the premises.

B. Exceptions

This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Ch. 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

C. Habitual congregating

1. Licensed premises. No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

2. Vacant property. No person or entity being the owner or otherwise in possession

or control of any vacant property adjacent to a licensed premise, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.

3. No persons shall congregate for the purposes, under the circumstances, or in the places proscribed by this Ordinance.

4. It shall be a defense to any prosecution under this Ordinance if such licensed vendor or property owner shall permit the Local Administrator to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.Sec. 2.5-104. Definitions.

As used in this section, the term:

(a) Habitual shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(b) Package liquor store shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;

(c) Public nuisance shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and

(d) Vacant property shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

A. Definitions

As used in this section, "keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

B. Malt beverage keg identification tag

All retail licensees (herein after referred to as "licensee") operating within Fleming County who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the Local ABC Administrator to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

1. The purchaser is of legal age to purchase, possess and use the malt beverage;

2. The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;

3. The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;

4. The purchaser will state the property address where the keg will be consumed and physically located; and

5. The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

C. Keg registration.

1. The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.

2. The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

3. The keg registration form shall be forwarded to the Local ABC Administrator within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

4. The Local ABC Administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

5. All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the Local ABC Administrator concerning the provisions of this section.

D. Unlawful Sales

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and

readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in Sec. 2.5-131(b). In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

A. Enforcement

The Sheriff, Deputy Sheriffs, Local ABC Administrator and officers operating lawfully with an inter-agency agreement are authorized to enforce this chapter for alleged violations.

ARTICLE XI. PENALTIES

A. Penalties

1. In addition to any criminal prosecution instituted in Fleming District Court against an alleged violator, the Local ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this article shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be made to the Local ABC Administrator who shall transmit said payments to the City Finance Department to be deposited 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, 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, 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 XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory responsible beverage service training

1. All persons employed in the selling and serving of alcoholic beverages shall complete a server training course provided by the Kentucky Department of Alcoholic Beverage Control, including any person(s) authorized to sell or serve alcoholic beverages under a Caterer's license.

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 Local 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.

4. All persons completing the training required by this section shall be re-certified in a responsible beverage server training course provided by the Kentucky Department of Alcoholic Beverage Control not less than once every three (3) years thereafter.

ARTICLE XIII. SIGNS AND ADVERTISING

A. Signs and advertising

1. All signage shall be in compliance with any and all other existing rules and regulations of Fleming County and the Commonwealth of Kentucky.

2. No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

3. Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

4. No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof or "extra strong") or depicting activities that tend to encourage excessive consumption.

ARTICLE XIV. IMPLEMENTATION OF ORDINANCE PROVISIONS

A. Implementation of ordinance provisions

From time to time, the Fleming County Fiscal Court may by Resolution or Order promulgate such rules and regulations and may publish and utilize such forms and other

documents as in its discretion may be necessary for the proper implementation of this Ordinance.

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 thereof;

This Ordinance is ADOPTED pursuant to KRS 67.077 in that it was published in summary form on the 16th day of December, 2020, and was introduced and read on the 8th day of December, 2020, and was given final reading on the 23rd day of December, 2020, and said Ordinance shall be in full force and effect upon signature; recordation and publication in summary pursuant to KRS Chapter 424 and KRS 67.077 subsection 3.

Approved this 23 day of December, 2020.

LARRY FOXWORTHY
FLEMING COUNTY JUDGE EXECUTIVE

ATTESTED:

Tammy Gray
Fleming County Fiscal Court Clerk

Passed by a vote of 6 to 0

Approved as to Form and Legality:

Monica Hill

Fleming County Attorney