

Spencer County, Kentucky
Ordinance No. 6
Fiscal Year 2014 Series

**ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE
PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE
CONTROL WITHIN SPENCER COUNTY**

WHEREAS, a local option election was held on October 20, 2009, pursuant to Kentucky Revised Statutes Chapter 242 to address the issue as to whether the County of Spencer should permit the sale of alcoholic beverages within Spencer County; and

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

WHEREAS, under applicable state law, Spencer County, may impose certain restrictions and regulations and provide for the establishment and collection of certain fees and fines related to the sale of alcoholic beverages and general commerce related thereto.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE FISCAL COURT OF SPENCER COUNTY, COMMONWEALTH OF KENTUCKY THAT THE ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE CONTROL WITHIN SPENCER COUNTY, SHALL READ AS FOLLOWS:

ARTICLE ONE: GENERAL PROVISIONS

Section 1.01 TITLE

This ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of Spencer County, Kentucky, or the “Spencer County Alcoholic Beverage Control Ordinance”.

Section 1.02 INCORPORATION OF STATE LAW; DEFINITIONS; AND COMPLIANCE REQUIRED

- A. **Definitions.** As used in this Chapter, unless the context clearly indicates a different meaning and specifies the language of a particular definition which shall apply, the words and terms as defined in Kentucky Revised Statute 241.010 (KRS 241.010) shall apply.
- B. The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243, and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Boards, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of Spencer County, except as otherwise lawfully provided herein. As used herein “State” means the Commonwealth of Kentucky and “County” means Spencer County, Kentucky.

- C. Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this ordinance.
- D. No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.
- E. All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in Kentucky Revised Statutes Chapter 244 (KRS 244) shall apply to alcoholic beverage use in the County.

Section 1.03 SCOPE OF COVERAGE

- A. This ordinance shall be construed to apply to the trafficking in all forms of “alcoholic beverages” as that term is defined by Kentucky Revised Statute 241.010(2), (KRS 241.010(1)) including malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise expressly states or requires, the term “alcoholic beverage” or “alcoholic beverages” shall have the same meaning as defined by Kentucky Revised Statute 241.010(2) (KRS241.010(2)) and shall include distilled spirits, wine, and malt beverages.
- B. Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in Spencer County where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance of Spencer County or any State and/or Federal statutes or regulations.

Section 1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS

All monies derived from license fees or from fines as provided in this ordinance shall be paid to the treasury of the County and become a part of the general funds of the County.

Section 1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED

This ordinance is and shall be subject to the provisions of Kentucky Revised Statute Chapter 243.600 (KRS 243.600). Spencer County shall give notice to the State Alcoholic Beverage Board of any fees or assessments fixed and/or levied under the provisions of this ordinance.

ARTICLE TWO: ADMINISTRATION

Section 2.01 ALCOHOL BEVERAGE CONTROL ADMINISTRATION

Pursuant to Kentucky Revised Statute 241.110 (KRS 241.110), the duties of the Spencer County Beverage Control Administrator (“County ABC Administrator”) as hereinafter established in this ordinance shall be assigned to the office of the County Judge Executive (“Judge”). The Judge shall have the power and authority to designate and appoint individuals as Deputy Alcoholic Beverage Control Administrators (“Deputy ABC Administrators”), to assist in the responsibilities of the office of the County ABC Administrator. The County ABC Administrator shall have the power and

authority to promulgate such regulations as may be necessary to implement this chapter, pursuant to Kentucky Revised Statutes 241.140 and 241.060 (KRS 241.140 and KRS 241.060).

Section 2.02 FUNCTIONS, DUTIES AND POWERS

- A. The functions of the County ABC Administrator shall be the same with respect to the County's alcohol licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State Board") with respect to State alcohol licenses and regulations, as provided in Kentucky Revised Statute 241.140, except that no regulations of the County ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control or the regulations of the State Board. No regulation of the County ABC Administrator shall become effective until it has been appropriately approved by Spencer County Fiscal Court.
- B. The County ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the County as the State Board has with respect to alcohol licenses issued by the State under Kentucky Revised Statutes 241.110 and 241.140 (KRS 241.110 and KRS 241.140).

Section 2.03 RIGHT OF INSPECTION

The County ABC Administrator, his designees/appointees and/or Spencer County law enforcement officers shall have available at all reasonable times for their inspection, all books and records required to be maintained by licensees pursuant to Kentucky Revised Statute 244.150 (KRS 244.150) and all other applicable State laws and regulations. Further, the Spencer County ABC Administrator shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

Section 2.04 APPEAL FROM COUNTY ABC ADMINISTRATOR

Appeals from any order of the County ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board within thirty (30) days a certified copy of the order of the County ABC Administrator from which the appeal is taken. Matters at issue shall be heard by the Board as upon an original proceeding, and the appeal shall be governed in accordance with KRS 241.150, KRS 243.550 and all other applicable State law.

Section 2.05 OATH AND BOND OF LOCAL ABC ADMINISTRATOR EMPLOYEES

- A. Each County ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth of Kentucky, and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000.)
- B. Each County ABC Administrator may require any County employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- C. The cost of bonds given under this section shall be borne by the County, in accordance with Kentucky Revised Statute 241.110 (KRS 241.110).

ARTICLE THREE: LICENSING REGULATIONS

Section 3.01 NUMBER AND TYPE OF LICENSES

The number and type of license for the manufacturing and/or trafficking in alcoholic beverages issued in the County shall not exceed the number and type of license as provided for and established under Kentucky Revised Statutes and all Kentucky Administrative Regulations promulgated pursuant thereto, as may be amended from time to time.

Section 3.02 LICENSE REQUIRED FOR SALE

No person shall, within the County, sell or dispense at retail or have in his possession for sale, nor manufacture or transport within the County for sale, any alcoholic beverages unless he shall first procure and have issued to him the appropriate license issued under the provisions of this ordinance, all State statutes and all administrative regulations adopted pursuant thereto. Any revocation, suspension, non-renewal or other action which obviates any license for the sale of alcoholic beverages issued by the State shall also operate to invalidate and make null and void the corresponding license issued pursuant to this ordinance.

Section 3.03 TYPE OF LICENSES; FEES

A. With respect to restaurant wine licenses:

Bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons.

The term “restaurant” as used in this section shall have the same meaning as currently provided at Kentucky Revised Statutes Chapter 241 (KRS 241), to-wit: “a facility where the usual and customary business is the serving of meals to customers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food”.

B. Types of Retail Licenses.

The County shall have the power and authority to issue the following types of licenses for the sale and trafficking in distilled spirits, wine, malt beverages, or retail drinks, upon proper application and payment of the below prescribed annual fees. All license fees indicated are on a per annum basis, unless otherwise expressly indicated.

a. Types of Retail License Defined:

1. **Retail Package License (distilled spirits and wine):** This license shall authorize the retail sale of distilled spirits and wine for consumption other than on the licensed premises.
2. **Restaurant Wine License:** This license shall authorize the retail sale of wine for consumption on the licensed premises in accordance with the restrictions set forth in this section.

3. **Malt Beverage License On Site:** This license shall authorize the retail sale of malt beverages for consumption on the licensed premises in accordance with the restrictions set forth in this section.
 4. **Malt Beverage License Off Site:** This license shall authorize the retail sale of malt beverages for consumption off the licensed premises in accordance with the restrictions set forth in this section.
 5. **Retail Drink License, Motel Drink License, Restaurant Drink License, or Supplemental Bar License:** This license shall authorize the retail sale of alcoholic drinks for consumption on the licensed premises in accordance with the restrictions set forth in this section.
 6. **Other special licenses** as the state board finds to be necessary for the administration of Kentucky Revised Statutes Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.
- b. License Fees: The license fees for any retail package licenses, restaurant wine licenses, malt beverage license, or retail drink licenses shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

C. Types of Special Temporary Licenses.

- a. The County shall have the power and authority to issue special temporary licenses, upon proper application and payment of the below prescribed fees. This license shall authorize the retail sale and consumption of distilled spirits, wine, and malt beverages on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events, or other approved public events.
- b. License Fees: The license fees for any special temporary license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

D. Special Private Club License for Beer Only; Fee Required.

- a. The County shall have the power and authority to issue a special private club license to any nonprofit social, fraternal, military or political organization or club which maintains or operates designated premises from which the general public is excluded. All restrictions and prohibitions otherwise applying to a malt beverage licensee shall apply to a special private club licensee.
- b. In order to assure that the general public is excluded from the designated premises of a private club license holder, the following guidelines must be met:
 1. Each private club member shall be issued a membership card which can be readily produced while visiting said club;
 2. Each private club member shall be limited to no more than two (2) non-member

guests at any club function or event; and

3. A written log shall be maintained of all non-member guests.

c. The fees for this category of license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

E. Caterer's License; Fees.

a. As used in this section, unless the context requires and expressly states otherwise the term "caterer" means a corporation, partnership or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

b. The County ABC Administrator shall have the power and authority to issue a caterer's license for the sale of alcoholic beverages upon proper application and payment of the prescribed fees. A caterer's license of the sale of alcoholic beverages may be issued as a supplementary license to a caterer that also holds a retail package license (distilled spirits and wine) or a hotel/motel/inn or restaurant retail drink license.

c. The caterer's license shall authorize the caterer to:

1. Purchase and store alcoholic beverages in the manner prescribed in Kentucky Revised Statutes Chapter 243 (KRS 243).

2. Transport, sell, serve and deliver alcoholic beverages by the drink at locations in wet territory away from the licensed premises in conjunction with the catering of food and beverages for a customer and/or his guests. Wine may also be transported, sold, served, or delivered.

3. Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and

4. Receive payment for alcoholic beverages served at a function on a by-the-drink or by-the-function basis. A caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

d. The caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverages licenses or special temporary licenses have been issued.

e. The caterer licensee shall post a copy of the caterer's license at the location of the function for which alcoholic beverages are catered.

f. The name and license number of the caterer shall be painted, in a contrasting color, in a form prescribed by the Kentucky Administrative Regulations, upon all vehicles used by the caterer to transport alcoholic beverages.

- g. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section shall apply to the caterer licensee.
- h. The caterer licensee shall submit a list of functions catered or to be catered, including location, host, date, and time upon request of the local ABC Administrator.
- i. The fee for the caterer's license shall be set at the maximum allowable pursuant to the provisions of Kentucky Revised Statutes Chapter 243 (KRS 243).

Section 3.04 LICENSES PERMITTED

In accordance with Kentucky Revised Statute 242.125 (KRS 242.125), Spencer County shall have the power and authority to issue any license for the manufacturing, trafficking, and sale of alcoholic beverages permitted by Kentucky Revised Statute 243.060 (KRS 243.060), or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of applicable State statutes and regulations and/or county ordinances.

Section 3.05 REGULATIONS TO CONFORM TO STATE LAW

All regulations which may be issued to administer Kentucky Revised Statute 242.125 (KRS 242.125), this section of the Spencer County Alcoholic Beverage Control Ordinance, and/or any other provisions of State law or county ordinance shall conform to the requirements of Kentucky Revised Statute 241.140 (KRS 241.140).

Section 3.06 LICENSE TERM; RENEWALS; AND WHEN LICENSE FEE DUE

- A. All required fees, as indicated above, for any form of alcoholic beverage license shall be due upon submission of any original application or application for renewal. The license applicant shall submit all required fees along with the application forms required for issuance of any alcoholic beverage license under this chapter. The required fee shall be paid by cash, certified check, or postal or express money order.
- B. All fees required to be paid upon submission of any original application or application for renewal of alcoholic beverage license under this ordinance shall be held on deposit by the County pending State license approval and issuance of the required State license. In the event that any requested State license is not issued for any reason, the applicant must submit a written request for a refund of all license fees paid in relation to the requested licenses not issued. The applicant's written request for refund must be submitted to the County ABC Administrator. Upon proper written request, the County will refund the license fees submitted by the applicant for any license(s) not issued, but the County will retain Fifty Dollars (\$50) per license fee paid for processing costs. In the event that any license fee submitted is Fifty Dollars (\$50) or less, there will be no refund from the County as the entire amount will be retained for processing costs.
- C. All alcoholic beverage licenses issued under this chapter shall expire on January 31 of each year, and all renewal applications and license renewal fees shall be due and payable on February 1 of each year.

Section 3.07 PRO-RATED LICENSE FEE

When any applicant makes application for a new license authorized to be issued under this chapter, he shall be charged 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 (½) the fee if less than six months remain before the license is due to be renewed. No abatement of license fee shall be permitted to any person who held a license of the same kind for the same premises in the preceding period and who was actually doing business under the license during the last month of the preceding license period.

Section 3.08 REFUNDS PROHIBITED

In the event any licensee shall cease doing business for any reason, no refund of any license fee required hereunder shall be granted.

Section 3.09 ASSIGNMENT, TRANSFER OR LICENSE REPLACEMENT

- A. The assignment, transfer or other form of acquisition of an interest in an alcoholic beverage license of whatsoever nature shall be governed by the provisions of Kentucky Revised Statutes 243.630, 243.640, 243.650, 243.660 and all other applicable State law. An approval by the State Alcoholic Beverage Control Board of any proposed assignment, transfer or other acquisition of interest in a duly issued alcoholic beverage license shall be deemed an approval by the County and non-approval by the State shall be deemed as non-approval by the County. No County alcoholic beverage license may be sold, assigned or otherwise transferred unless the proposed transfer has first been approved by the State Alcoholic Beverage Control Board pursuant to applicable state law. A transfer fee of \$25 shall be paid to the County upon any permitted assignment or transfer of an alcoholic beverage license.

- B. In the event that an alcoholic beverage license has been lost or destroyed, the local ABC Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.

Section 3.10 POSTING OF LICENSE

Each license issued by the County pursuant to this chapter shall be posted at the licensed premises in the same manner as prescribed by Kentucky Revised Statute 243.620 (KRS 243.620) for State licenses. An exact duplicate or facsimile of each license issued by the County under this chapter shall remain in the local ABC Administrator's office as part of the public record.

Section 3.11 WHOLESALE DISTRIBUTORS

Every wholesale distributor of alcoholic beverages who sells or conducts business with Spencer County shall report to the County ABC Administrator on a form to be provided by the County, the following information:

1. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter; and
2. The net revenues received by the wholesaler or distributor from each retailer.

ARTICLE FOUR: APPLICATION PROCESS AND ISSUANCE OF LICENSES

Section 4.01 APPLICATION FOR STATE LICENSE

All applicants for alcoholic beverage licenses available pursuant to this ordinance must submit the appropriate application for issuance of a State license as stipulated in Kentucky Revised Statute 243.380 (KRS 243.380) and all other application State law.

Section 4.02 LOCAL ADMINISTRATOR TO APPROVE APPLICATION

Pursuant to applicable State law, an applicant for an alcoholic beverage license must first have his State license approved by the County Alcoholic Beverage Control Administrator before the applicant is eligible to apply for a State license. An applicant for a license under this chapter shall file with the County Alcoholic Beverage Control Administrator a copy of the State license application as required by the State, along with any County license application that may be required. The County license application shall be in a form prescribed by the County ABC Administrator and the application form shall be made available to interested applicants through the County Judge Executive's Office. The county license application shall be properly subscribed and sworn to before a notary public or other officer authorized to administer an oath and shall include an identification of the premises where alcoholic beverages are to be sold, either by way of the street number or otherwise, along with the name of the owner of the premises, and shall be accompanied by a certified copy of the deed or lease agreement through which the applicant holds possessory interest in the premises, in addition to any other information required on the application form as may be prescribed by the County ABC Administrator. In the event that the applicant is a corporation or a limited liability company, the applicant shall provide personal information as may be required on the application form (by way of example, name, age, date of birth, Social Security number, address, etc.) for each shareholder, officer and/or director of the corporation and/or member of the limited liability company, whichever applies.

Section 4.03 APPLICANT'S CONSENT TO INSPECTION, SEARCH AND REGULATORY ACTION

The County license application shall include the acknowledged consent of each and every applicant to permit the County ABC Administrator and his designees to inspect and search the licensed premises at any reasonable time.

Section 4.04 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE, OR SUSPENSION OR REVOCATION OF LICENSE

- A. **STATE LAW REFERENCES:** Causes for refusal to issue or renew a County license or for suspension or revocation of a County license shall be the same as provided for State license pursuant to Kentucky Revised Statutes 243.450, 243.490, and 243.500.
- B. **VIOLATION OF COUNTY ORDINANCE:** In addition to the above State law references, violation of any County ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall be grounds for refusal to issue or renew a license or suspension or revocation of a license.
- C. **DELINQUENT TAXES OR FEES:** No license for the sale or trafficking of alcoholic

beverages shall be granted or renewed to any person or entity that is delinquent in the payment of any taxes or fees due the County at the time of application for the license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property, owned and/or occupied by the licensee, for which there are any delinquent taxes or fees due the County. If the licensee becomes delinquent in the payment of any taxes due to the County at anytime during a license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The County ABC Administrator may, in his discretion, approve a license to sell alcoholic beverages after receiving from the Spencer County Attorney a written statement to the effect that the applicant for a license has paid or has made satisfactory arrangements with the Spencer County Attorney to pay any indebtedness represented by the unpaid and delinquent taxes or fees.

- D. APPEALS: Appeals may be taken from any decision of the County ABC Administrator to the State Alcoholic Beverage Control Board, pursuant to the provisions of Kentucky Revised Statutes 241.150 and 243.550, and all other applicable State law.

Section 4.05 APPROVAL OR DENIAL OF APPLICATION OR RENEWAL

- A. If upon review of the license application, the County ABC Administrator determines that the applicant has complied with all requirements and regulatory provisions of this ordinance and applicable state law, that the premises sought to be licensed meets all requirements of this ordinance and applicable State law and that there are no causes for denial of a license, the County ABC Administrator shall approve that application.
- B. If the County ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violations and requiring the applicant to show cause why the requested license should be issued. The County ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine any violation set forth in the show cause order issued by the County ABC Administrator. Any decision by the ABC County Administrator on the application shall be subject to appeal as provided under this chapter and applicable State law.

Section 4.06 ISSUANCE OF COUNTY LICENSE

Upon issuance of a State license, the requested County license shall be issued, subject to the provisions of this ordinance and State law concerning renewal, revocation and/or suspension. No license shall be issued by the clerk without the approval of the County ABC Administrator, which approval shall be granted only after the County receives an exact duplicate or facsimile copy of the State license issued to the applicant. The County license shall be in a form as prescribed by the County ABC Administrator and shall conform with the requirements of Kentucky Revised Statutes Chapter 243 (KRS 243).

Section 4.07 POSTING OF LICENSES

Each County license issued under this ordinance shall be a licensed premises in the same manner as prescribed by Kentucky Revised Statute 243.620 (KRS 243.620) for State licenses. An exact duplicate or facsimile of each County license issued under this chapter shall remain in the County Clerk's Office the public record.

Section 4.08 PERSONS WHO MAY NOT RECEIVE A LICENSE

A. PERSON AS APPLICANT:

1. No License shall be issued under this chapter until after the applicant has been issued the appropriate State license by the Commonwealth of Kentucky.
2. No license shall be issued to any person under 21 years of age.
3. No license shall be issued to any person who is not a citizen of the United States and has not had an actual, bona fide residence in the State for at least one (1) year before the date on which his or her application for a license is made.
4. No License shall be issued to any natural person if he or she:
 - a. Has been convicted of any felony in the five (5) years immediately preceding the date of application. The five years shall be from the date of conviction, released from custody or incarceration, parole or termination of probation, whichever is later;
 - b. Has been convicted of any misdemeanor involving the controlled substances described under Kentucky Revised Statutes Chapter 218A (KRS 218A) in the two (2) years immediately preceding the application;
 - c. Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;
 - d. Has had any license issued under this ordinance relating to the regulation or the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such state statute, until the expiration of two (2) years from the date of the revocation or conviction.

B. CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY AS APPLICANT

1. No license shall be issued to a partnership, limited partnership, limited liability company or corporation if:
 - a. Any member of the partnership or limited liability company, or any of the directors, principal officers, shareholders and managers of the corporate entity do not qualify under subsection A of this section;
 - b. If the applicant has had any license issued under this ordinance relating to the regulation of the manufacture, sale or the transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any criminal offense referenced as set forth above in subsection A(4) of this section, until the expiration of two (2) years from the date of the revocation or conviction; or

- c. If any member of the partnership, limited partnership, limited liability company, or any director, officer, shareholder or manager of the corporate entity has had any license issued under any statutes relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause or has been convicted of any criminal offense referenced as set forth above in subsection A(4) of this section, until expiration of the latter of two (2) years from the date of revocation or two (2) years from the date of conviction.

ARTICLE FIVE: PROHIBITIONS, RESTRICTIONS, AND GENERAL REGULATIONS

Section 5.01 HOURS OF SALE

- A. Premises for which there has been granted a license for the retail sales of alcoholic beverages shall be permitted to sell or offer for sale alcoholic beverages only between the hours of 6:00am and 12:00am each day, except Sunday. The sale of alcoholic beverages on Sunday shall be limited to the hours between 1:00pm and 12:00am.
- B. It shall be unlawful to keep open for business or permit the public to remain within, or to permit consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of alcoholic beverages is prohibited; provided, however, that in the case of bona fide restaurants, hotels/motels/inns, convenient stores and grocery stores, such establishments may be kept open for business during such hours when alcoholic beverage sales are prohibited, but no alcoholic beverages may be sold to the public during such hour.

Section 5.02 GENERAL REGULATIONS AND RESTRICTIONS

- A. No gambling or game of chance, unless otherwise authorized by the Commonwealth of Kentucky, shall be permitted in any form on the licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on the premises.
- B. It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Spencer County, as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Sheriff or the County ABC Administrator shall have the authority to confiscate any and all radio receiving apparatus.
- C. The licensee shall be responsible for maintaining security on his or her premises, including providing adequate outside lighting to permit customers to utilize the parking area, and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.
- D. Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- E. No wholesaler or distributor shall sell any alcoholic beverages to any person in the County for

any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

- F. All restaurants and dining shall distribute alcoholic beverages only during times in which their kitchen is open and their food staff is on duty.
- G. It shall be unlawful for any licensee licensed under this chapter to allow the consumption of any alcoholic beverages on their premises; provided however in the case of bona fide restaurants and motels/motels/inns, such establishments may allow the consumption of alcoholic beverages during the hours allowable by law.

Section 5.03 ADVERTISING RESTRICTIONS

- A. Signage. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) feet by two (2) feet that must be displayed from the inside window or interior of the business. No additional signs, banners, posters or other type of display advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on or be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises menus or other price cards not larger than 11"x14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages.
- B. No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- C. It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- D. Any advertising by any licensee under this chapter shall be in compliance with Kentucky Revised Statute 244.130 (KRS 244.130).

Section 5.04 LICENSE TO BECOME VOID IF BUSINESS DORMANT

Any license for the sale of alcoholic beverages issued under this chapter shall become null and void in the event that no business is transacted under the license for a period of ninety (90) days. If no business is transacted under any license issued under this chapter during any consecutive 90-day period, the license shall be surrendered to the County ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:110, as amended from time to time, to continue such license in dormancy. In the event that a period of dormancy is applied for and granted by the State ABC Administrator, the licensee shall immediately notify the County ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the County ABC Administrator and a fee shall be due and payable for the period the license was on dormancy in the same amount due had the license remained active for the same period.

Section 5.05 LICENSEE TO DISPLAY WARNING TO MINORS

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12"x16" which shall read substantially as follows:

WARNING TO MINORS: ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) IS SUBJECT TO A FINE OF UP TO ONE HUNDRED DOLLARS (\$100) IF THEY:

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

Section 5.06 ACCOUNTING REQUIREMENT

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involving the sale of alcoholic beverages and food in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the County ABC Administrator. Such books and records shall be made available at all reasonable times for inspection by the County ABC Administrator or his appointed designee.

Section 5.07 LICENSEE TO OBTAIN COPY OF ORDINANCE

- A. Upon timely request by the licensee, the County ABC Administrator shall furnish to each and every licensee a copy of this ordinance at the time the license is issued with signed receipt from the licensee. Any changes or amendments to this ordinance shall be forwarded to each licensee at the address on the license. Failure to receive or review such changes or amendments or review the ordinance shall not be an excuse or justification for any violation, nor shall failure to receive or review any changes or amendments prevent, remit or decrease any penalty for any violation of this ordinance.
- B. It shall be the duty of the licensee under this ordinance to obtain a copy of this ordinance from the County ABC Administrator. Further the cost of obtaining a copy of this ordinance shall be borne by the licensee.

Section 5.08 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING; STANDARDS FOR CERTIFICATION

- A. All persons, corporation, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the County ABC Administrator. Before approval is granted, the County ABC Administrator shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The County shall not require enrollment in any particular class or classes, but only require that the

training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.

- B. All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by Spencer County for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the County ABC Administrator.
- C. Subsections (A) and (B) above shall not apply to any Manufacturer of alcoholic beverages as this term is defined in Kentucky Revised Statute 241.010(34) (KRS 241.010(34)) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.
- D. Standards for Certification: The training person or agency must reasonably instruct upon and certify the participant's competence in at least the following:
 - 1. Pertinent federal, state and local laws related to the sale of alcohol;
 - 2. Verification of age, forms of identification and usual methods of false or misleading age identification;
 - 3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
 - 4. Recognition of the signs of intoxication;
 - 5. Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
 - 6. The licensee's policies and guidelines, including the employee's role in observing those policies; and
 - 7. Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

- E. All persons required to undergo the training set forth in paragraph (A) above shall complete same within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the County ABC Administrator under the foregoing criteria not less than once every three (3) years.

F. Personnel Certification Records: Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this ordinance. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the Alcoholic Beverage Control Administrator, all licensees and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

G. Penalties:

1. No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to any one on the licensed premises.
2. Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this ordinance, shall upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.

ARTICLE SIX: CONDUCT, LOCATION PREMISES AND STRUCTURE REQUIREMENTS

Section 6.01 CONDUCT REQUIREMENT

Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

Section 6.02 ZONING RESTRICTIONS: LOCATION, PREMISES, AND STRUCTURE REQUIREMENTS

- A. No license shall be issued under this ordinance for the sale or trafficking in any alcoholic beverages at any premises or location where such business is prohibited under the County's zoning ordinances or any other ordinances of the County as may be amended or supplemented from time to time, and any license issued in violation of this section shall be null and void.
- B. No license shall be issued under this ordinance unless the premises to be licensed conforms to the sanitary, safety and building code requirements of the County and rules and regulations of the State and Local Board of Health applicable thereto. Further, the County ABC Administrator shall not grant any alcoholic beverage license until the license applicant and the intended licensed premises have been approved by the State Health Department and County Code Enforcement Officer with respect to all applicable building codes.
- C. Any licensee holding a license which permits the sale and consumption of alcoholic beverages

on the premises where sold shall maintain an easily discernible physical barrier between the general dining area and any bar area. The separate bar areas shall be posted “Persons under Twenty One (21) years of age may not enter or remain in this area”.

- D. Any licensee holding a license which will be conducting sales through a drive-thru window shall not locate that window in the rear of the premises. The drive-thru window must be located in plain sight on either side of the premises or the front of the premises.

ARTICLE SEVEN: PENALTY FOR VIOLATIONS

Section 7.01 PENALTY FOR VIOLATIONS

- A. Any person who violates any provision of this ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
1. For the first offense, a fine not to exceed Five Hundred Dollars (\$500.00); and
 2. For any subsequent offense, a fine not to exceed Five Hundred Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
- B. In addition to any other penalty provided for herein or as provided under any other applicable federal, state, or local law or regulation, any licensee violating any provision of this ordinance shall be subject to suspension or revocation of any and all licenses issued under this chapter.

ARTICLE EIGHT: OTHER PROVISIONS

Section 8.01 PRIOR ORDINANCES REPEALED

Any and all previous ordinances regulating the sale of or providing provisions regarding alcoholic beverages in Spencer County are hereby repealed.

Section 8.02 SEVERABILITY

Any section or subsection of this ordinance determined by a Court of law to be unlawful shall not affect the validity of the remaining sections or subsections of this ordinance.

Section 8.03 EFFECTIVE DATE

This ordinance shall be in full effect immediately upon approval and passage by the Fiscal Court of Spencer County, Commonwealth of Kentucky.

Given first reading and approved on this 18th day of November, 2013.

Given second reading and adopted on this ____ day of _____, 2013.

ORDINANCE FAILS TO PASS FISCAL COURT, 12/16/2013

Bill Karrer, Spencer County Judge Executive

Attest:

Lynn Hesselbrock, Spencer Fiscal Court Clerk