

AN ORDINANCE OF THE COUNTY OF ROWAN, KENTUCKY, ADOPTING WITH AMENDMENTS FOUND HEREIN, THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREIN AFTER TO BE KNOWN AS THE COUNTY OF ROWAN “ALCOHOLIC BEVERAGE CONTROL ORDINANCE”; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS § CHAPTERS 241 THROUGH 244 AS RECENTLY UPDATED BY THE GENERAL ASSEMBLY AND ADMINISTRATIVE AGENCIES; AND

WHEREAS, THE COUNTY OF ROWAN, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING OF ALCOHOL, AND SALES OF ALCOHOL WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF ROWAN SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE COUNTY OF ROWAN 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 HEREBY ORDAINED, BY THE FISCAL COURT OF ROWAN COUNTY THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW;

SECTION 1: GENERAL

- A. This Ordinance shall be known as the “Alcoholic Beverage Control Ordinance” of the County of Rowan, Kentucky (hereinafter referred to as the “County”).
- B. The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS § Ch. 241 through 244.
- C. The definitions and words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS § Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.
- D. This Ordinance shall be construed as to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the county, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

- E. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS § Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this ordinance except as otherwise lawfully provided herein.

SECTION 2: OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

- A. The County Judge Executive shall serve as the Rowan County Alcoholic Beverage Control Administrator (hereinafter referred to as “County ABC Administrator”) unless the County Judge Executive appoints another to fill the position pursuant to KRS § 241.110.
- B. The County ABC Administrator shall take the oath prescribed in Section 228 of the Kentucky Constitution before entering upon such duties.
- C. The County ABC Administrator and his investigators shall have the full police power of peace officers, and their jurisdiction shall be coextensive with the Rowan County Fiscal Court.
- D. The County ABC Administrator and his investigators, as a condition of continued licensing, may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- E. The County ABC Administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150 and the County ABC Administrator shall be provided copies of all reports submitted by the licensee to the Kentucky Alcoholic Beverage Control Board.
- F. Before entering his duties, the County ABC Administrator shall execute a bond with a good corporate security in the penal sum of not less than one thousand dollars (\$1,000).
- G. The County ABC Administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- H. The cost of the bonds given under this section shall be borne by the Rowan County Fiscal Court.
- I. The functions of the County ABC Administrator shall be the same with respect to Rowan County licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board with respect to state licenses and regulations, except that no regulations adopted by the Rowan Fiscal Court may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the Kentucky Alcoholic Beverage Control Board.
- J. Appeals from the orders of the County ABC Administrator may be taken as prescribed by KRS § 214.150.

SECTION 3: LOCAL REQUIREMENTS

- A. Each person, corporation, or business entity, before applying for an alcoholic beverage license in Rowan County shall first apply to and obtain approval of the County Finance Director for a county occupational license to do business; and no person shall engage in any business for which a license is provided under this section without first obtaining such occupational license. If an occupational license is currently held by the applicant, that person or business must be in 'good standing' with the County Finance Director.

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

- C. No license to sell alcoholic or malt beverages may be granted to an applicant whose licensed premises would include non-permanent structures lacking traditional foundations. This is not applicable for Special Temporary Licensees.

SECTION 4: ALCOHOL LICENSE APPLICATION PROCEDURE

A. Form of Application

All applications and renewals shall be submitted in the manner required by the County ABC Administrator. The application shall be accompanied by a certified check, cash, postal or express money order, or corporate check for the license fee. An application which is substantially incomplete, or which does not contain the correct fee will be rejected. The County ABC Administrator shall have up to thirty (30) days to process the application.

B. Advertisement

Pursuant to KRS § 243.360, any person, corporation, or partnership, before applying for a qualifying license, shall advertise by publication under KRS § 424.130(1)(b) his or her intention to apply for a license in the local newspaper of record. The notice shall specifically state that which is required under KRS § 243.360

C. Issuance

The County ABC Administrator shall conduct an inspection of the premises to ensure compliance prior to issuing or renewing a license. The County ABC Administrator shall either approve or disapprove of any such application or renewal in accordance with the law. Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this Ordinance to the County ABC Administrator, who shall issue the license.

SECTION 5: CLASSES OF LICENSES — LICENSE FEES

- A. The following classes of licenses are created and subject to be issued in accordance with all terms, conditions, and qualifications as set out herein. The Rowan County Fiscal Court will abide by the definitions of terms and licenses laid out in the Kentucky Revised Statutes § Chapters 241, 242, 243, and 244, as they currently exist and as amended.

- B. The fee for each county license shall be as set out in the schedule set forth below. In the event KRS 243.60 shall hereafter be amended to authorize additional county licenses, the fee for each county license shall be the maximum fee provided in the statute as amended.

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

SECTION 6: LICENSE PERIOD; TIME OF PAYMENT DELIQUENCY

- A. The license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses; other than special temporary licenses, when issued, shall be valid for a period of no more than one (1) year. All licenses shall expire on the 30th day of June each year.

- B. The annual license renewal fees provided in this ordinance shall be paid on or before the 2nd Tuesday of June each year and any person holding any form of such license who fails to pay the license fees by said date shall be subject to a revocation of such license and in addition shall pay a penalty of ten (10%) percent of the amount of the annual license renewal fee if the license is subsequently renewed.

- C. When any person applies for a license authorized to be issued under this ordinance, the applicant 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 removed.

SECTION 7: LICENSE TO CONTAIN CERTAIN INFORMATION

- A. There shall be stamped or printed on the face of each license issued pursuant to this ordinance the type of license issued, such as “Retail Beer,” “Retail Package Liquor,” and so forth, together with the words “License period shall be _____ through _____,” and the year to be covered by

such license, or in the case of special temporary licenses, the precise dates covered by the license. The address of the licensed premises must also be present on the license.

SECTION 8: LICENSE TO BE DISPLAYED

- A. Before commencing any business for which a license has been issued, the licensee shall post and display licenses at all times in a visible place in the room or principal room where business is carried out, so that all persons visiting the place may readily see the license.
- B. No licensee shall post the license or permit it to be posted upon 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.
- C. Wherever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the County ABC Administrator and upon the payment of a fee of twenty-five dollars (\$25.00).

SECTION 9: DAYS OF ALCOHOL SALES; HOURS OF SALES

- A. Sales of alcohol in Rowan County shall only be for the hours authorized herein for the days of Monday through Sunday.
- B. Retail package distilled spirits, wine and malt beverage package licensees shall be permitted to sell Monday through Sunday at all hours except for the period between the hours of 12:00 midnight and 6:00 a.m.
- C. A licensee for distilled spirits, wine and/or malt beverages by the drink shall be permitted to sell or dispense alcoholic beverages by the drink Monday through Sunday, from 6:00 a.m. to 1:00 a.m. of the following day provided that the appropriate licenses and approvals have been obtained from both the County ABC Administrator and the state ABC Board.

SECTION 10: LICENSE REVOCATION OR SUSPENSION

- A. Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the County ABC Administrator, the County ABC Administrator may institute proceedings to revoke or suspend any license granted under this Ordinance. A license may be revoked or suspended only after the licensee has 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 received for or claimed.
- B. The County ABC Administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this Ordinance as the Kentucky Alcoholic Beverage Control Board has with respect to licenses granted under KRS § Chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.

- C. Any license may be revoked or suspended by the County ABC Administrator if the licensee has violated any of other provisions of KRS § Ch. 241 to 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee has violated or violates any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the county heretofore in existence or authorized by the terms of KRS § Ch. 241 to 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed is disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the County ABC Administrator in the exercise of his or her sound discretion deems sufficient.
- D. A license may be revoked for any of the reasons for which the County ABC Administrator would have been required to refuse a license if the facts had been known.
- E. The County ABC Administrator may at his or her discretion order a suspension of the license for any cause for which it may, but it is not required to, revoke the license under the provisions of KRS § 243.490 and § 243.500. However, the licensee may have the alternative, subject to the approval of the County ABC Administrator, to pay in lieu of the days of any suspension period, a sum as follows:
 - a. First violation. The licensee shall be subject to a fine of five hundred dollars (\$500.00) or shall have his or her license suspended for a period of seven (7) days.
 - b. Second violation. For a second violation within two (2) years of the first violation, the licensee shall be subject to a fine of one thousand dollars (\$1,000.00) or shall have his or her license suspended for a period of fourteen (14) days.
 - c. Third and subsequent violations. For a third violation within two (2) years of the second violation, the licensee shall be subject to a fine of two thousand dollars (\$2,000.00) or shall have his or her license suspended for a period of thirty (30) days.
- F. In addition to or in lieu of a suspension of a license, the County ABC Administrator may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in an alcohol server training program.
- G. A decision of the County ABC Administrator revoking or suspending a license may be appealed as provided in KRS § 241.140. Appeal from the decision of the County ABC Administrator revoking or suspending a license shall be to the Kentucky Alcoholic Beverage Control Board. The timely filing of an appeal shall stay any penalty imposed by the order until conclusion of the Kentucky Alcoholic Beverage Control Board appeal and any subsequent court appeals.
- H. If a license is revoked or suspended by an order of the County ABC Administrator and the decision is not appealed, the licensee shall suspend all operations authorized under his or her license upon effective date of the order.

SECTION 11: REGULATORY LICENSE FEE

- A. Pursuant to KRS § 243.075, there is hereby imposed a Regulatory License Fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the

County ABC Administrator. The County's Regulatory License Fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the Regulatory License Fee shall be five percent (5%) of gross sales. The Regulatory License Fee shall be five percent (5%) on gross retail sales of package malt beverages.

- B. The Rowan County Fiscal Court may adopt with the budget 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 in this Ordinance until such time as the Rowan County Fiscal Court shall adjust the fee.
- C. Payment of said regulatory fee shall be remitted to the County ABC Administrator, who shall transmit all fees to the Rowan County Treasurer, or designee, for deposit into the appropriate designated account. The County may use said fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the County. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee in the County shall be allowed in an amount equal to any license fee shall be based on paperwork required by the state alcoholic beverage control board and/or the County ABC Administrator, which may include but is not limited to tax returns and financial statements. Said paperwork and payment will be due according to the schedule set forth by the County ABC Administrator, or his designee, which may be set at, but is not limited to, time periods consisting of a monthly or quarterly billing by the local County ABC Administrator.
- D. Failure to pay such remittance within ten (10) days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.
- E. Penalty for failure to file a return and pay remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).

SECTION 12: DISPOSITION OF FEES AND ANY OTHER TYPE OF PAYMENT TO THE COUNTY

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

SECTION 13: BEVERAGE SERVICE TRAINING

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

- B. 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.
- C. Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the County ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.
- D. All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

SECTION 14: NUDITY/ADULT ENTERTAINMENT AND DRINK SPECIALS

- A. 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.
- B. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises.
- C. 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.
- D. No licensee shall sponsor, offer, or permit drinking contests, all-you-can-drink specials, or free drinks on any licensed premise in the county.

SECTION 15: IMPLEMENTATION

- A. The Rowan County Fiscal Court may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.
- B. If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.
- C. The Ordinance shall take effect immediately after its Passage and Publications as required by law.

Given a first reading by the Rowan County Fiscal Court at its special called meeting on June 21, 2022, and passed by a vote of 5 ayes and _____ nays.

Given a second reading by the Rowan County Fiscal Court at its regular meeting on July 19, 2022, and passed by a vote of 4 ayes and _____ nays.

1 absent



Harry Clark
Rowan County Judge/Executive

Attest:



Kerry Michele Jessee
Rowan County Fiscal Court Clerk