

COMMONWEALTH OF KENTUCKY  
SHELBY COUNTY FISCAL COURT  
ORDINANCE NO. 12-06-04, SERIES 2016

AN ORDINANCE REPEALING SHELBY COUNTY CODE OF ORDINANCES  
CHAPTER 110, ALCOHOLIC BEVERAGES, AND ENACTING A NEW  
ORDINANCE ADDRESSING THE REGULATION OF THE TRAFFICKING OF  
ALCOHOLIC BEVERAGES IN SHELBY COUNTY, KENTUCKY

WHEREAS, pursuant to KRS 67.038(1)(n) and other applicable laws, Shelby County, Kentucky, through the Shelby Fiscal Court, has the authority to regulate the trafficking of alcoholic beverages within Shelby County, Kentucky; and

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, previously adopted an ordinance establishing regulations and requirements for alcoholic beverage control in Shelby County, Kentucky, and

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, codified that ordinance in the Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, and

WHEREAS, in an election held on September 13, 2016, in Shelby County, Kentucky pursuant to KRS Chapter 242, the citizens of Shelby County, Kentucky, voted to allow the presence of alcohol, the manufacturing of alcohol and the sale of alcohol within the corporate limits of Shelby County, Kentucky, so long as done in accordance with all applicable local, state and federal laws, and

WHEREAS, as a result of said election it is necessary to repeal Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, and to enact a new ordinance establishing uniform requirements for the licensing and regulation of alcoholic beverage manufacturing and sales as authorized pursuant to KRS Chapters 241 through 244, and all other applicable law in order to preserve the health, safety and welfare of the citizens of Shelby County, Kentucky,

THEREFORE, BE IT ORDAINED by Shelby County, Kentucky, through the Shelby County Fiscal Court, as follows:

1. Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, is hereby repealed.
2. A new ordinance establishing uniform requirements for the licensing and regulation of alcoholic beverage trafficking in Shelby County, Kentucky, is hereby enacted as follows:

Section 1. General

A. Purpose.

The purpose of this ordinance is to establish uniform requirements for the licensing and regulation of alcoholic beverage trafficking in the county.

B. Adoption of State Alcoholic Beverage Control Law

The provisions of the Alcoholic Beverage Control Laws and Administrative Regulations of the Commonwealth of Kentucky, KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted in full, as far as applicable, as a portion of this chapter unless otherwise lawfully provided herein.

C. Administration.

The County Alcoholic Beverage Control (ABC) Administrator shall administer all alcoholic beverage control ordinances and regulations of the county, and all state statutes of the Commonwealth of Kentucky relating thereto, and the regulations of the State Alcoholic Beverage Control Board.

D. Definitions.

The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the State Alcoholic Beverage Control Law (KRS Chapters 241 through 244 and the applicable Kentucky Administrative Regulations), and all amendments and supplements thereto.

Section 2. County Alcoholic Beverage Control Administrator

A. Duties

1. The County Judge-Executive shall serve as the County Alcoholic Beverage Control Administrator (hereinafter referred to as the County ABC Administrator), unless the County Judge-Executive appoints someone else to fill the position pursuant to KRS 241.110.
2. The County Judge-Executive may from time to time appoint such investigators and clerks as are deemed necessary to assist the County ABC Administrator in the administration of this chapter.
3. The salary for the office of County ABC Administrator, if any, together with the salaries of any investigators and clerks shall be fixed by the Fiscal Court in accordance with KRS 64.530.

4. The functions of the County ABC Administrator shall be the same with respect to county licenses and regulations as the functions of the Alcoholic Beverage Control Board of the state (hereinafter referred to as the ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the County ABC Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the ABC Board. No regulation of the County ABC Administrator shall become effective until it has first been approved by the Fiscal Court.
5. If the County Judge-Executive appoints the County ABC Administrator that individual shall take the oath as prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than \$1,000.

B. Power to refuse license

1. The County ABC Administrator may refuse to issue, refuse to renew or revoke any license issued as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as for any violation of any county ordinance regarding alcoholic beverage licensing, sales or the administration thereof.
2. A license (new issuance, transfer or renewal) may be refused by the County ABC Administrator for any reason that he or she, in the exercise of his or her sound discretion, may deem sufficient in the exercise of his or her sound discretion. Among those factors the County ABC Administrator shall consider in the exercise of his or her discretion are: public sentiment in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

C. Appeals

1. Appeals from the orders of the County ABC Administrator shall be taken in accordance with KRS 241.150.
2. When any decision of the County 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 County 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 a court 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.

Section 3. Licenses: Types, Fees, and Definitions

- A. For the privilege of trafficking in alcoholic beverages in the county, and pursuant to KRS 243.060, there is hereby established a corresponding county license for each of the state licenses described in KRS 243.060. In the event KRS 243.060 is hereafter amended to authorize additional county licenses, the fee for each additional county license shall be the maximum fee provided in the statute so amended. The fee for each county license shall be as set as follows:
1. Quota Retail Package License, per annum \$1,000.00
  2. Quota Retail Drink License, per annum \$1,000.00
  3. Non-quota Type 2 Retail Drink License, per annum (includes distilled spirits, wine and malt beverages) \$1,000.00
  4. Non-quota Type 3 Retail Drink License, per annum (includes distilled spirits, wine and malt beverages) \$300.00
  5. Special Temporary License, per event \$166.00
  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 (includes distilled spirits, wine, and malt beverages) \$1,400.00
  10. Limited Golf Course License, per annum (includes distilled spirits, wine, and malt beverages) \$1,400.00
- B. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premise.
- C. The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

D. Certain Special Licenses defined:

a. Limited Restaurant License

A facility meeting the definition of "Limited Restaurant" pursuant to KRS 241.010(35) may obtain a Limited Restaurant License in accordance with the provisions of KRS 243.034.

b. Limited Golf Course License

An establishment meeting the criteria of the United States Golf Association as a nine (9) or eighteen (18) hole golf course may obtain a limited golf course license in accordance with the provisions of KRS 243.039.

c. Non-quota Type 1 Retail Drink License

A Non-quota Retail Drink License pursuant to KRS 243.082, may be issued to, and in the, following: a Convention Center or a Convention Hotel Complex; a Horse Racetrack; an Automobile Racetrack; a Railroad System; a Commercial Airlines System or Charter Flight System, a Qualified Historic Site, or a State Park.

d. Non-quota Type 2 Retail Drink License

A Non-quota Retail Drink License pursuant to KRS 243.084 may be issued to the following: (a) a Hotel that contains at least fifty (50) sleeping units, contains minimum dining seating for at least fifty (50) persons, and which maintains fifty percent (50%) of its gross food and drink sales from the sale of food; (b) a restaurant that contains minimum dining seating for at least fifty (50) persons, and which maintains fifty percent (50%) of its gross food and drinks sales from the sale of food; (c) an Airport; or (d) a Riverboat.

e. Non-quota Type 3 Retail Drink License

A Non-quota 3 Retail Drink License pursuant to KRS 243.086 may be issued to the following: (a) a Private Club in existence for longer than one (1) year prior to the license application and which excludes the general public; (b) a Dining Car, (c) a Distiller, and (4) a Bed and Breakfast.

f. Non-quota Type 4 Retail Malt Beverage Drink License

A Non-quota Type 4 Retail Malt Beverage Drink License pursuant to KRS 243.088 may be issued to and as defined in KRS to the following: a holder of a quota retail drink license; a holder of a microbrewery license; a holder

of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only. A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, *unless* there is maintained in inventory for sale on the premises at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.

g. Special Temporary License

A Special Temporary License may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. Such a license may be issued to any regularly organized fair, exposition, racing Association, organized civic or community-sponsored event, or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink Licensee *and* a Non-quota Type 4 Malt Beverage Drink Licensee at designated premises for a specified and limited time, which shall not exceed thirty (30) days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section.

Section 4: Licenses: Applications, Renewals, Transfers and General Conditions

A. Application

1. Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper, in accordance with KRS 243.360 and meeting the requirements of KRS Chapter 424.
  - a. The advertisement shall state the names and addresses of the members of the partnership if the applicant is a partnership; the name and addresses of the members of an LLC if the applicant is an LLC, as well as the name of the business and its address; or if the applicant is a corporation, the names and addresses of the principal officers and directors of the corporation, as well as the name and addresses of the corporation itself, 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.

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2. All licenses granted under this chapter shall be approved by the County ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the county, as amended and supplemented from time to time.
3. The application shall be verified and shall set forth in detailed information concerning the applicant and the premises for which the licenses is sought as required by the KRS 243.390 and any other information required by the ABC Board and the county ABC Administrator.
4. 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.
5. Each application shall be collected by the County ABC Administrator and accompanied by a one certified check, cash or a postal or express money order in the amount of fifty dollars for the application fee and another certified check, cash or a postal or express money order for the license fee, less the fifty dollar (\$50.00) application fee, made out to the Fiscal Court. The County ABC Administrator shall transmit fees upon collection to the County Treasurer to be deposited in the appropriate designated account.
6. All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the County ABC Administrator.
7. All county licenses shall be in a form as may be prescribed by the Fiscal Court and shall contain:
  - a. The name and address of the licensee;
  - b. The number of 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; and

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.

8. All licenses approved by the County ABC Administrator and issued by the county shall begin on July 1 of any year and shall expire on June 30 of the following year.

9. Any licenses issued after January 1 of any year shall be assessed a fee equal to one-half of the annual fee for the remainder of the license period.

10. In the event that any license issued pursuant to this ordinance is revoked the licensee shall not be entitled to a refund of any license fee.

**B. General conditions for all licenses**

All licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of other ordinances and regulations applicable thereto.

1. 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, and no nuisance suffered, permitted or maintained thereon.

2. It shall be unlawful for any licensee under this chapter to sell, keep or permit to be sold or kept on the licensed premises any controlled substances as defined in KRS Chapter 218A, except at a licensed pharmacy. In addition to other penalties set out in this chapter for the violation of this section, the County ABC Administrator shall also have the authority to revoke the license issued to the premises.

3. It shall be unlawful for any licensee, or any employee of any licensee, to permit or allow acts of prostitution, gambling or the possession of any gambling device on the licensed premises, unless the gambling activity is licensed by the Kentucky Lottery, the Kentucky Racing Commission for pari-mutuel betting, or the Office of Charitable Gaming.

4. It shall be unlawful for any licensee, or an employee of any licensee, to allow the premises to become overcrowded or to violate any ordinance or regulation of the principal fire department serving the district wherein the license is held.

5. No license shall be issued or renewed to any person for selling at retail or wholesale any alcoholic beverages at any premises or location where the business or associated activities are prohibited under state law, or are in

violation or conflict with any regulation, including but not limited to, sign, fire prevention and/or the zoning regulations of the county, or any of the incorporated cities within the county that do not have their own ABC Administrator, and any ordinance supplementary or amendatory to it.

6. The County ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and the place proposed for business shall apply with all applicable building codes.
7. Delinquent taxes; license withheld
  - a. No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the County Fiscal Court at the time of issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes or liens or any other obligations owed to any government agency.
  - b. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes or liens of the County Fiscal Court due on the property or premises have not been paid. In such cases, the County ABC Administrator may not issue a license to sell alcohol until the Administrator has received from the applicant a written statement from the County Sheriff, indicating that the applicant for the license and the owner of the property or premises on which the license is sought have paid in full all unpaid and delinquent taxes or other obligation(s) owed to any county public agency.
8. Books, records and reports
  - a. 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. These books and records shall be available at all reasonable times for inspection by the County ABC Administrator and those county employees who may assist the County ABC Administrator in his or her review.
  - b. For the purpose of assisting the County 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 the report to the County ABC Administrator. Copies of any and all reports

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and correspondence to the County ABC Administrator required by statute shall be furnished to the County ABC Administrator.

C. Pursuant to KRS 243.600, county licenses authorized pursuant to this ordinance shall be issued and the fees collected by the county clerk who may charge a fee of fifty cents (\$0.50) for the clerk's services for each license issued. The clerk shall report and pay to the county treasurer at the end of each month such fees as the clerk has collected. No license shall be issued without the approval of the county administrator. The licenses shall be issued in such form as may be prescribed by the county administrator.

D. Renewals

1. Renewal of License

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

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

C. Review of license

1. Applicants for whom a food sales requirement exists shall provide periodic information demonstrating compliance with the continuing percentage requirement earned from the sale of food.

2. This documentation shall be provided quarterly for the applicant's first year, semiannually for the second year, and annually thereafter, provided that the applicant stays in compliance, and shall be submitted with the applicant's quarterly regulatory fee filings. This information shall consist of a certificate from a certified public accountant familiar with the applicant's pertinent business records.
  3. This certificate shall state:

I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of (company), License Number \_\_\_\_\_ under Ordinance No. \_\_\_\_\_, I hereby certify that the licensee earned the minimum food sales requirement stipulated in License Number \_\_\_\_\_ for the quarter ending \_\_\_\_\_. (MINIMUM FOOD SALES REQUIREMENT IS \_\_\_%) The licensee derived \_\_\_\_\_% of its gross sales from food and \_\_\_\_\_% of its gross receipts from the sale of alcohol.
  4. This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.
  5. In the event the food requirement is not met during any particular quarter, the County ABC Administrator shall have discretion in determining whether revocation is appropriate, or whether the licensee may be allowed a reasonable period of time to reach compliance.
  6. If a good faith effort is demonstrated by the licensee, the County ABC Administrator may apply an accounting period of at least one year in determining whether or not the minimum food requirement has been met.
- D. Transfer or assignment
1. Any licensee wishing to transfer or assign any license issued pursuant to this ordinance shall comply with all provisions of KRS 243.630.
  2. No license issued under this ordinance shall be transferred or assigned, as to either licensee or location, except with prior approval of the County ABC Administrator, and not then until a payment of \$100 shall be made to the County ABC Administrator.
- E. Change of information
1. If a license is issued in the name of a corporation, limited liability company or partnership, ownership changes in the entity must be reported to the County ABC Administrator so that the County ABC Administrator may investigate the person to whom the ownership interest is transferred

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in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

2. As used herein, the word “change” is construed to include any change in directors or officers of a corporation, or change in ownership of stock of a corporation or ownership interest in a limited liability company or partnership whereby any person secures 10% of the stock or ownership interest. Transfer of more than 10% of the total stock or ownership interest shall require a new license.
3. The following information will be required concerning any new director, officer or person securing any interest in an alcoholic beverage license:
  - a. Name and address;
  - b. Nature of interest;
  - c. Whether or not the applicant is a citizen of the United States;
  - d. Date of birth and Social Security Number;
  - e. Date residence was established in the state, if a resident of the state.
  - f. Date residence was established in the county, if a resident of the county;
  - g. Whether or not he or she has any interest in any other license or corporation, limited liability company or partnership holding a license under KRS 241 through 244 or this Ordinance;
  - h. Extent of stock ownership; and
  - i. Whether or not he or she has any interest in any license or corporation, limited liability company or partnership holding a license in any other state.

F. Lost or destroyed licenses

When a license is lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the County ABC Administrator, after the Administrator shall be satisfied as to the facts; provided, however, that the person applying for the duplicate license shall pay a fee of \$10 for the duplicate.

Section 5. Licenses: Special Conditions and Other Allowed Sales

A. Special conditions for patio and other outdoor sales

1. Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.
2. No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises, except in a clearly defined patio or outdoor area. All outdoor areas shall be subject to the approval of the County ABC Administrator. An exception to this restriction may be granted for patio and outdoor sales, upon application to and authorization from the County ABC Administrator. The permission to operate patio and outdoor sales shall be governed by the provisions of this chapter, and shall be subject to the regulation of local zoning authorities, as well as code enforcement and public safety officers.
3. No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area has been approved in advance by the County ABC Administrator.
4. Patio and outdoor sales seating areas must comply with this chapter and with local zoning laws and other public safety requirements noted in this chapter, or in other local ordinances, statutes or regulations.

B. Special conditions for sidewalk café permit

1. Any food establishment that operates a restaurant and is licensed under this chapter and the provisions of the State ABC Code, may, upon application to the County ABC Administrator, ask for permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk that immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café").
2. Licensees that do not serve food shall not be eligible to apply for a sidewalk café permit.
3. The issuance of a permit shall be subject to the following conditions and restrictions.
  - a. No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of 36 inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance or exit to the restaurant, or to encroach on any adjoining business.

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- b. No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk cafe during any period when the sidewalk cafe is not open and being operated. Tables, chairs and other portable appurtenances shall be confined to the area named or shown on the approved permit. While the cafe is in operation, all tables and chairs shall be kept in a clean, sanitary condition.
  - c. The use of a portion of the public sidewalk as a sidewalk cafe shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over the use of the public sidewalk at all times.
  - d. In addition to all other requirements of law, the licensee shall take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passers-by or persons who are not of age or who are obviously or apparently intoxicated.
  - e. No disposable cups or drinking vessels may be used, and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.
  - f. At no time shall any music originating from any part of the premises create a nuisance.
  - g. The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises.
  - h. The permit for a sidewalk cafe may not be assigned or transferred.
  - i. No sidewalk cafe permit shall be effective unless the licensee has filed with the County ABC Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of the sidewalk cafe. The insurance shall be in amount of coverage that is a minimum of \$500,000 per person for bodily injury, and a minimum of \$1,000,00 per occurrence for property damage. The county shall be named an additional insured in the policy required. The insurance policy shall further provide expressly that it may not be canceled except upon ten days' written notice filed with the County ABC Administrator.
- C. Special temporary licenses may be issued in compliance with KRS 243.260.

- D. Souvenir package sales by state licensed distillers and sampling and sale of alcoholic beverages on distillery premises shall be conducted in accordance with KRS 243.0305.
1. Any state-licensed distiller that has a gift shop or other retail outlet on its premises may conduct the activities permitted pursuant to KRS 243.0305 as a part of its distiller's license.
  2. A wholesaler registered to distribute the brands of any distiller may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
  3. A distiller may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three liters per visitor per day, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one liter per visitor attending the event. These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.
  4. Hours of sale for souvenir packages at retail shall be 9:00 a.m. until 9:00 p.m., prevailing time, Monday through Saturday; and 1:00 p.m. until 9:00 p.m., Sunday. The licensed premises may remain open if it has a separate department pursuant to KRS 244.290(1).
  5. Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
  6. No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any state retail licensee licensed for the sale of distilled spirits by the package pursuant to KRS 243.0305

**Section 6. Revocation or Suspension: Grounds and Procedures**

Any license issued pursuant to this ordinance may be suspended or revoked for the causes contained in KRS 243.490, KRS 243.500, or for any reason for which the County ABC administrator would have been required to refuse a license had the facts been known.

A. Notice to surrender license; hearing

1. Within three days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license, or in the last statement supplemental to the application, shall be deemed sufficient compliance with this section.
2. Upon receiving notice of revocation, the licensee shall at once surrender his or her license to the County ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the County ABC Administrator shall immediately ask local law enforcement officers to take physical possession of the license and return it to the County ABC Administrator.
3. When a license has been revoked, the former licensee may, with prior approval of the County ABC Administrator, dispose of and transfer the licensee's stock of alcoholic beverages to an appropriate entity.
4. Appeals from the decision of the County ABC Administrator shall be made to the State ABC Board.
5. If a license is revoked or suspended by an order of the County ABC Administrator, the licensee shall at once suspend all operations authorized under that license.

B. Dormancy

1. Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90-day period, the license shall be surrendered to the County ABC Administrator.
2. The provisions of subpart (1) 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, county or other governmental agency under the power of eminent domain, whether the acquisition is voluntary or involuntary, or loss of a lease through failure of the landlord to renew the existing lease. The licensee shall furnish to the County ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of the 90 days of inactivity, for any of the reasons set forth herein, and the County ABC Administrator may grant an extension of the dormancy, with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business

is transacted during the period; provided, however, no license shall be considered valid unless business is conducted thereunder within 12 months from the date of notice to the County ABC Administrator. The extension may not extend beyond the renewal date, but may be for those times as the County ABC Administrator deems appropriate.

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

C. Forfeitures

If any license issued under this ordinance is revoked or cancelled for any reason by the County ABC Administrator, the licensee shall forfeit any and all claims, which the licensee might otherwise have had to any portion of the license fee paid by the licensee on the issuing of the license.

D. Refund of license fees

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

E. Temporary Closing

1. In the course of the operation a licensed premises, should any violations of this chapter or other statutes or ordinances that are in the nature of a public

disorder, including but not limited to, those described under KRS 244.120 (Retail premises not to be disorderly - Acts constituting disorderly behavior), be reported and investigated by the local law enforcement, and in the event the action requires closure of the establishment, it shall be reported to the County ABC Administrator.

2. In the interest of public health, safety, morals and welfare, the County ABC Administrator may temporarily suspend the license in question for the remaining hours of the day in question and may request the assistance of local law enforcement in locking the premises and dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the County ABC Administrator or designee; this review shall occur within the next three business days.

Section 7. Hours for Sale and Delivery

A. Hours for sale

A licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink or by the package Monday through Saturday, between the hours of 6:00 a.m. and midnight, and on Sunday, between the hours of 1:00 p.m. and 9:00 p.m.

B. Delivery

All delivery of alcoholic beverages in the county shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

Section 8. General Prohibitions and Restrictions

A. Gambling and games of chance

No gambling or game of chance shall be permitted in any form on licensed premises. Dice, slot machines or any device of chance is prohibited and shall not be kept on the premises. This section shall not apply to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

B. Nudity and adult entertainment activities

1. Definitions. For the purposes of this section, the following definitions apply.
  - a. "Nudity" shall include the exposure to public view the bare female breast below a point immediately above the top of the areola, human genitals of any gender, the pubic region or buttocks, male genitalia in a discernible or turgid state whether or not completely and opaquely covered, or any device or covering intended to give

the appearance of or to simulate the female breast below a point immediately above the top of the areola, human genitals of any gender, the pubic region or buttocks.

b. "Adult Entertainment Activities" shall include nudity, nude or nearly nude dancing; adult motion pictures, television, slides, stage shows, cabarets or other sexual entertainment.

2. No licensee shall offer or permit nudity or adult entertainment activities, or 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.

3. No licensee shall 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.

C. Drinking contests, all-you-can-drink specials and free drinks

No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premises in the county.

D. Radio-receiving apparatus adjusted to police band

It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio-receiving apparatus on the premises that is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the county, as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the County ABC Administrator, or the Administrator's designated investigator, shall have the authority to confiscate any and all such radio-receiving apparatus.

E. Security

1. 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.

2. Security standards as necessary to discourage unlawful activity in and around the licensed premises.

F. Premiums or prizes for the sale of alcoholic beverages

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.

G. Posting of license

Before commencing any business for which a county license has been issued pursuant to this ordinance, the licensee shall post and display the county license 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.

H. Prohibited sales

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 purchaser for any consideration other than for cash at time of purchase.

Section 9. Enforcement

A. Enforcement personnel

Local law enforcement officers and the County ABC Administrator are authorized to enforce this chapter for alleged violations.

B. Investigation and inspection of premises

The County ABC Administrator, and any investigator acting under the authority of the County ABC Administrator, shall have the full police powers of peace officers within the boundaries of the county.

Section 10. Mandatory STAR Training

A. Persons employed in the serving of alcoholic beverages shall participate in and complete the STAR training program administered by the State Alcoholic Beverage Control Board.

B. Persons required to complete training shall complete STAR training within 90 days of the date on which the person first becomes subject to the training requirement. All persons completing STAR training required by this section shall

be re-certified in through STAR training not less than once every three years thereafter.

- C. The manager of a restaurant shall be responsible for compliance with STAR 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.

Section 11. Product Signs and Advertising

All signage shall be in compliance with any and all other existing rules and regulations of the county and the county comprehensive zoning ordinance, except as otherwise noted in this section.

Section 12. Implementation

- A. Information deemed confidential

Any information, including returns, documents or payments made pursuant hereto, and any other information gained by the County ABC Administrator, or any other official, agent or employee of the County Fiscal Court, as a result of any return, investigation, hearing or verification required or authorized by this chapter, shall be confidential; except in accordance with proper judicial order. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of the State or their duly authorized agent, or the Commissioner of Internal Revenue Service or their duly authorized agent, all such information, and extend the right to inspect any of county books and records to the Commissioner of the Revenue Cabinet of the State and/or to the Commissioner of the Internal Revenue Service, who must grant to the county the reciprocal right to obtain information from the files and records of the Internal Revenue Service, and maintain the privileged character of the information so furnished to them.

- B. Implementation of chapter provisions

From time to time, the County Fiscal Court may, by resolution or order, promulgate those rules and regulations and may publish and utilize those forms and other documents as, in its discretion, may be necessary for the proper implementation of this chapter.

Section 13. Penalties

Any person who violates the provisions of this ordinance shall be guilty of a Class B misdemeanor and be subject to a fine not to exceed \$250.00, imprisonment not to exceed ninety (90) days in the county jail or both a fine not to exceed \$250.00 and imprisonment in the county jail not to exceed ninety (90) days. In the event the offender is a licensee hereunder, that license shall be revoked. In the event that the offender is a corporation,

limited liability company, association, partnership or fiduciary, the principal officer(s) or manager(s) responsible for the violation shall be subject to incarceration.

Section 14. Severability

Each section and provision of this Ordinance is hereby declared to be an independent section and provision and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said Ordinance, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

INTRODUCED, SECONDED AND GIVEN A FIRST READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 15<sup>th</sup> day of NOVEMBER, 2016.

INTRODUCED, SECONDED AND GIVEN A SECOND READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal court held on the 07<sup>th</sup> day of DECEMBER, 2016.



ROB ROTHENBURGER,  
Shelby County Judge/Executive

ATTEST:

  
SUE CAROLE PERRY,  
Shelby County Clerk

DOCUMENT NO: 426547  
RECORDED: December 07, 2016 01:45:00 PM  
TOTAL FEES: \$0.00  
COUNTY CLERK: SUE CAROLE PERRY  
DEPUTY CLERK: SUE CAROLE PERRY  
COUNTY: SHELBY COUNTY  
BOOK: O2016 PAGES: 136 - 157

**Admission Policy**

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**NOTICE OF PASSAGE**

COMMONWEALTH OF KENTUCKY  
SHELBY COUNTY FISCAL COURT  
ORDINANCE NO. 12-06-04, SERIES 2016

AN ORDINANCE REPEALING SHELBY COUNTY CODE OF ORDINANCES CHAPTER 110, ALCOHOLIC BEVERAGES, AND ENACTING A NEW ORDINANCE ADDRESSING THE REGULATION OF THE TRAFFICKING OF ALCOHOLIC BEVERAGES IN SHELBY COUNTY, KENTUCKY

WHEREAS, pursuant to KRS 67.038(1)(n) and other applicable laws, Shelby County, Kentucky, through the Shelby Fiscal Court, has the authority to regulate the trafficking of alcoholic beverages within Shelby County, Kentucky; and

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, previously adopted an ordinance establishing regulations and requirements for alcoholic beverage control in Shelby County, Kentucky, and

WHEREAS, Shelby County, Kentucky, through Shelby Fiscal Court, codified that ordinance in the Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, and

WHEREAS, in an election held on September 13, 2016, in Shelby County, Kentucky pursuant to KRS Chapter 242, the citizens of Shelby County, Kentucky, voted to allow the presence of alcohol, the manufacturing of alcohol and the sale of alcohol within the corporate limits of Shelby County, Kentucky, so long as done in accordance with all applicable local, state and federal laws, and

WHEREAS, as a result of said election it is necessary to repeal Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, and to enact a new ordinance establishing uniform requirements for the licensing and regulation of alcoholic beverage manufacturing and sales as authorized pursuant to KRS Chapters 241 through 244, and all other applicable law in order to preserve the health, safety and welfare of the citizens of Shelby County, Kentucky,

THEREFORE, BE IT ORDAINED by Shelby County, Kentucky, through the Shelby County Fiscal Court, as follows:

1. Shelby County Code of Ordinances Chapter 110: Alcoholic Beverages, is hereby repealed.
2. A new ordinance establishing uniform requirements for the licensing and regulation of alcoholic beverage trafficking in Shelby County, Kentucky, is hereby enacted as follows:

Section 1. General

Section 2. County Alcoholic Beverage Control Administrator

Section 3. Licenses: Types, Fees, and Definitions

Section 4: Licenses: Applications, Renewals, Transfers and General Conditions

Section 5. Licenses: Special Conditions and Other Allowed Sales

Section 6. Revocation or Suspension: Grounds and Procedures

Section 7. Hours for Sale and Delivery

Section 8. General Prohibitions and Restrictions

Section 9. Enforcement

Section 10. Mandatory STAR Training

Section 11. Product Signs and Advertising

Section 12. Implementation

Section 13. Penalties

Section 14. Severability

I hereby certify that Ordinance No. 12-06-04, Series 2016, was enacted and adopted by the Fiscal Court of Shelby County, Kentucky, on December 6, 2016, and that the foregoing is true and accurate, and it is further certified that the foregoing Ordinance was prepared by the undersigned, the duly elected Shelby County Attorney and a licensed, practicing attorney of the Commonwealth of Kentucky.

/s/ Hart T. Megibben  
Shelby County Attorney  
Date: December 6, 2016

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