

POWELL COUNTY, KENTUCKY

ALCOHOL BEVERAGE CONTROL ORDINANCE
Ordinance 18-29-04

ORDINANCE NUMBER _____

AN ORDINANCE TO THE COUNTY OF POWELL, KENTUCKY, ADOPTING WITH AMENDMENTS FOUND HEREIN, THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE COUNTY OF POWELL “**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 POWELL, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING OF ALCOHOL, AND SALES OF ALCOHOL WITHIN THE CORPORATE LIMITS OF THE COUNTY OF POWELL SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE COUNTY OF POWELL THEREFORE HAS ESTABLISHED UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURING, AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244, AND ALL OTHER APPLICABLE LAW;

NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF POWELL COUNTY, KENTUCKY, 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 Powell County, 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 Chapters 241 through 244.

C. 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 alcoholic beverage control laws (KRS Chapters 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

D. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 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 Powell County Alcoholic Beverage Control Administrator (hereinafter referred to as “County ABC Administrator”), unless the County Judge Executive shall appoint 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/her investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the Powell County Fiscal Court.

D. The County ABC Administrator and his/her investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

E. Before entering upon 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 (\$1,000.00).

F. The County ABC Administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.

G. The cost of the bonds given under this section shall be borne by the Powell County Fiscal Court.

H. The functions of the County ABC Administrator shall be the same with respect to Powell 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 Powell 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.

I. Appeals from the orders of the County ABC Administrator may be taken as prescribed by KRS 241.150.

J. Pursuant to the Provisions of the KRS 241.110 (1)-(6), there are hereby created three positions of Clerk to the County Alcoholic Beverage Control Administrator. Clerk’s shall be appointed by the Powell County Judge Executive and shall serve a term of four (4) years. The function and duties of the position of Clerk shall be to insure the proper conduct of the County Alcoholic Beverage Control Administrators office, including but not limited to being present at all administrative hearings held by the Administrator and rendering advisory opinions based on testimony presented at any such hearing.

Section 3 - License Application Procedure

A. Each person, before applying to the Kentucky Alcoholic Beverage Control Board under the provisions of KRS Chapter 243, to do business in Powell County shall first apply to and obtain approval of the County ABC Administrator for a county 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 license.

B. Such licenses shall conform in their provisions and the business authorized to kindred state licenses.

C. Such application for the Powell County license shall be in the form of a verified copy of the license application prescribed by the Kentucky Alcoholic Beverage Control Board, containing all of the information and documents required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of law.

D. The County ABC Administrator shall either approve or disapprove of any such application in accordance with the law.

E. 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 4 - Alcoholic Beverages Licenses Authorized – License Fees

A. The following kinds of alcoholic beverage licenses may be issued by County ABC Administrator, the fees for which shall be:

1.	Quota retail package license (per annum)	1,200.00
2.	Special temporary license (per event)	166.66
3.	Non-quota type 2 retail drink license (per annum)	1,000.00
4.	Non-quota type 3 retail drink license (per annum)	300.00
5.	Special Sunday retail drink license (per annum)	300.00
6.	Limited restaurant license (per annum)	1,200.00
7.	Limited golf course license (per annum)	1,200.00
8.	Qualified historic site license	1,030.00
9.	Non-quota retail malt beverage package license (per annum)	400.00
10.	Non-quota type 4 retail malt beverage drink license (per annum)	400.00
11.	Quota Retail Drink License (per annum)	900.00
12.	Distiller’s License (a) Class A (more than 50,000 gallons per year)(per annum)	3,090.00
	(b)Class B (50,000 gallons or less) (per annum)	1,000.00
13.	Rectifiers License (a) Class A (More than 50,000 gallons per year) (per annum)	2580.00
	(b) Class B Craft Rectifier (less than 50,000 gallons per year) (per annum)	825.00
14.	Caterer’s License (per annum)	830.00
15.	Sampling License (per annum)	110.00
16.	Brewer’s License A brewer’s license shall be subject to and defined by the provisions of KRS 243.150 (per annum)	2580.00
17.	Microbrewery License (per annum)	520.00

Not to exceed 50,000 barrels produced annually. A microbrewery license shall be subject to and defined by the provisions of KRS 243.157

B. Pursuant to KRS 243.230(2) no retail quota drink licenses shall be issued by the County ABC Administrator.

Section 5 - License period; time of payment; delinquency

A. The license period for all forms of alcoholic beverage licenses other than the Quota Retail Drink License, shall conform to the period covered by kindred licenses issued by the state; and such licenses, other than special temporary licenses and the Quota Retail License, when issued, shall be valid for a period of no more than one (1) year. All licenses other than a Quota Retail Drink License, shall expire on the 30th day of April each year. Two (2) Quota Retail Drink Licenses are authorized in Powell County and may be granted by the Powell County ABC Board and may be used in conjunction with special events approved by the Powell County ABC Board when submitted to the board two months prior to the need for such license. The license period for a Quota Retail Drink License shall be valid for 100 days of the license period, and may not use the license for more than 3 consecutive days. The holder of a Quota Retail Drink License may only serve patrons who hold tickets or an invitation issued for the event, or those patrons who are attending an event that collects a cover charge after having duly paid cover charge. Only venues that derive at least fifty percent (50%) of sales from food at the event shall be eligible to hold a Quota Retail Drink License with each event being individually reconciled as to applicable payments to the County of Powell. Any violations of the license requirements shall result in a \$2500.00 fine or (50) day suspension of license.

B. The annual license renewal fees provided in this Ordinance shall be paid on or before the tenth day of April 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 renewed.

Section 6 - Disposition of License Fees and Fines in Lieu of Suspension

All money derived from the collection of license fees, pursuant to this Ordinance, shall be paid into and become part of the general fund of the Powell County Fiscal Court.

Section 7 - License to Contain Certain Information

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.

If the County obtains additional quota licenses they will be in the control of the Powell County Fiscal Court.

Section 8 - License to be Displayed

A. Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this Ordinance shall be posted and at all times displayed 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.

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. Whenever 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 - Hours of Sales and Delivery of Alcohol

A. It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof to deliver any malt beverages in Powell County between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday. The word "deliver" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof. Additionally, it shall be unlawful for any distributor, wholesaler or manufacturer or for any agent or employee thereof to make such deliveries in any way such that a public roadway, right-of-way, or access thereto is blocked or in such a manner as to impede the normal flow of traffic or ingress and egress to and from a public roadway, right-of-way, or access point.

B. It shall be unlawful for any person, either for private use or for the purpose of sale, to receive from any distributor, wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday.

C. Distilled spirits, wine and malt beverages may be sold by the drink or by the package Monday through Saturday between the hours of 6:00 a.m. until 12:00 a.m. midnight. Distilled spirits, wine and malt beverages may be sold between the hours of 1:00 p.m. until 10:00 p.m. on Sunday, provided that no sales of alcohol are permitted on Easter Sunday or on Christmas Day if it falls upon a Sunday. Further, holders of a Quota Retail Drink License shall be permitted to sell alcoholic beverages from 4:00p.m. until 10:00p.m. Monday through Saturday and from 1:00p.m. until 10:00p.m. on Sunday, provided that, no sales of alcoholic beverages are permitted on Easter Sunday or on Christmas Day if either should fall on a Sunday.

D. To Go Drinks are permitted to restaurants only as long as they accompany food orders (establishment must have a food permit). The restaurants must have one of the following licenses: NQ2 Retail Drink license or a NQ4 Retail Malt Beverage Drink license. Must have a snap lid and it's recommended a sticker goes over straw lid.

E. If a licensee provides a separate locked department within its licensed remises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the hours proscribed above, it shall be deemed to have complied with this section.

F. The term "locked department" shall include all display windows, showcases,shelves, and counters. In no event shall the shelves and counters be left open, but shall have a door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.

G. A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.

H. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

Section 10 - Required Signage

A. It shall be the duty of every retail licensee pursuant to KRS 244.083 to display at all times in a prominent place a warning to minors on a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, the content of the warning specified in KRS 244.083.

B. It shall be the duty of every retail licensee pursuant to KRS 243.895 to post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall, in gender-neutral language supplied by the Cabinet for Health and Family Services, warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

Section 11 – Minors

A. No person being the owner or occupant or otherwise in possession or control of any property located within Powell County shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

B. No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.

C. It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.

D. As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

Section 12 - Lavatory Facilities

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

Section 13 – Liquor Store Requirements

- A. To obtain a liquor store license, 80% of the store must be alcohol sales.
- B. The store itself must be 1,000 square feet or greater.
- C. The volume of sales must be \$150,000.00 or greater annually.

Section 14 - 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 shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

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 state 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 shall have violated any of the provisions of KRS Chapters 241 to 244, or any rule or regulation of the state alcoholic beverage control 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 shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and

transportation, or taxation, of intoxicating liquors, or any rules or regulations of the county heretofore in existence or authorized by the terms of KRS Chapters 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. Upon proceedings for the revocation of any license under KRS 243.520, the County ABC Administrator may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. It shall be noted that it is at the ABC Administrator and ABC Boards discretion to change the amount of fines for first offenses to allow the board to set the fine at a lesser amount on smaller issues and infractions. It is also up to the ABC Board to decide to allow the license fee credit to take the place of the fine until paid in full if they do not want to take the suspension. However, the licensee may have the alternative, subject to the approval of the County ABC Administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows:

1. Except for violations arising from retail sales activities, including sales under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305 distillers, rectifiers, wineries, and brewers -- one thousand dollars (\$1,000) per day *of first offense; increases \$1,000.00 each offense thereafter per day.*
2. Wholesale liquor licensees -- four hundred dollars (\$400) per day *of first offense; increases \$400.00 each offense thereafter per day.*
3. Wholesale beer licensees -- four hundred dollars (\$400) per day *of first offense; increases \$400.00 each offense thereafter per day.*
4. Retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink -- fifty dollars (\$50) per day *of first offense; increases \$50.00 each offense thereafter per day.*
5. Distillers, wineries, and brewers for violations arising from their retail sales activities, including sales by distillers under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305 -- fifty dollars (\$50) per day *of first offense; increases \$50.00 each offense thereafter per day.*
; and,
6. All remaining licensees -- fifty dollars (\$50) per day of first offense; *increases \$50.00 each offense thereafter per day.*

**It should be noted that it is up to a \$2500 fine for the first offense and an additional \$1,000 for any subsequent offense thereafter.*

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 state alcoholic beverage control board. The timely filing of an appeal shall stay any penalty imposed by the order until conclusion of the state 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.

I. Any license found committing an infraction in Powell County by the state alcoholic beverage control board and determined to be in violation of the provisions of KRS Chapter 241to144, or any rule or regulation of the State alcoholic beverage control board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale and transportation, or taxation of alcoholic beverages, shall automatically be subject and liable to pay the Powell County ABC board any such fines determined appropriate by the state alcoholic beverage control board to resolve the infraction.

J. It should be noted that the Powell County ABC will be implementing and practicing a three (3) year offense tracking system. Each infraction will be tracked, and if any licensee accrues three (3) of the same type of infractions of the same kind of offense in (3) three years or less may have all licenses revoked indefinitely.

Section 15 - 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 ___percent (___%) 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 (___%) of gross sales. The Regulatory License Fee shall be four percent (___%) on gross retail sales of package malt beverages.

B. The Powell 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 Powell 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 Powell County Clerk, or his 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 (5) days of the due date constitutes a violation and shall subject a licensee to a fine of \$250.00 for regulatory fees paid within 5 days past the due date and \$50.00 per day for each day thereafter until paid. If a licensee is late in the regulatory license fee remittance more than 3 times in a calendar year, said license shall be subject to having the license revoked.

Section 16 - Disposition of Fees and Payments to the County

The County ABC Administrator shall transmit all fees and any other types of payment made to the County, upon collection, to the Fiscal Court Clerk, or his/her designee, for deposit into the appropriate designated account.

Section 17- Non-Quota Type 4 Retail Malt Beverage Drink License Requirements

Only venues that derive at least fifty percent (50%) of sales from food and have a 25- seat capacity (per state requirement) or greater shall be eligible to hold a Quota Retail Drink License. Any violations of the license requirements shall result in a \$2500.00 fine or (50) day suspension of license.

Section 18 - Malt Beverage Keg Registration

A. For purposes of this section a "keg" is defined as a brewery-sealed individual container of malt beverage having a liquid capacity of six (6) or more gallons.

B. Each malt beverage retail licensee who sells malt beverages in kegs for consumption off the premises of the licensee shall:

1. Affix a keg identification tag on all kegs at the time of sale;
2. Require the purchaser of the keg to complete a keg registration form;

3. Provide a copy of the completed keg registration form to the purchaser at the time of sale;
4. Retain, maintain and produce the keg registration form in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;
5. Remove the keg identification tag when the keg is returned to the licensee; and
6. If a keg is returned without the keg identification tag, within five (5) business days of the return date provide written notice of that fact to the County ABC Administrator by delivery or by regular, first-class mail.

C. The keg identification tag shall be furnished by the County ABC Administrator and shall be in a form prescribed by administrator. The keg identification tag shall consist of paper within a clear plastic coating, plastic, metal, or another durable material that is not easily destroyed. The keg identification tag shall be uniquely numbered to allow the keg to be traced and shall be affixed to the keg at the time of sale with nylon ties or cording, wire tires or other metal attachment devices, or another durable means of tying or attachment. The keg identification tag shall include a prominently visible warning that the intentional removal or obliteration of the tag is unlawful. The keg identification tag should be designed so that when affixed or attached to the keg it will not mar or otherwise physically damage the keg.

D. The keg registration form shall be in the form prescribed and furnished by the County ABC Administrator and shall contain the following:

1. The name and address of the purchaser, verified by an equivalent valid identification document;
2. The purchaser's motor vehicle operator's number or the type and number of an equivalent identification document;
3. A statement signed by the purchaser stating that:
 - a. The purchaser is twenty-one (21) years of age or older;
 - b. The purchaser does not intend to allow persons less than twenty-one (21) years of age to consume any of the malt beverages being purchased;
 - c. The purchaser will not intentionally remove or obliterate or knowingly permit the removal or obliteration of the keg identification tag; and
 - d. The purchaser will produce a copy of the keg registration form upon request of any law enforcement officer.
4. The location or property address or addresses where the keg will be physically located and the contents consumed and the date or dates on which the contents will be consumed;
5. The date of sale, the size of the keg, the keg identification number, the amount of the container deposit, if any, paid by the purchaser, and the name of the licensee's agent, servant or employee selling the keg; and

6. A summary of the requirements of this section including the penalties for any violations of this section and the penalties for providing alcoholic beverages to a minor.

E. Any brewer, distributor or microbrewer who sells malt beverages in kegs to its employees for home consumption or to charitable or fraternal organizations holding group meetings, picnics or outings shall comply with the requirements of this section when the keg will be physically located or the contents consumed in Powell County.

F. Any person in possession of a keg that was purchased outside of the County shall comply with this section by:

1. Obtaining a keg identification tag from the County ABC Administrator within five (5) days of bringing the keg into Powell County;
2. Affixing the identification tag to the keg;
3. Providing the County ABC Administrator with the information required to complete the keg registration form and sign the completed form; and
4. Producing a copy of the keg registration form upon request of any law enforcement officer; and
5. Removing the keg identification tag when the keg is returned to the licensee and, within five (5) business days of such removal, returning the identification tag to the office of the County ABC Administrator.

G. It shall be unlawful:

1. To sell or offer for sale a keg without an affixed keg registration tag;
2. To sell a keg without obtaining a completed keg registration form;
3. Except as provided herein, for any person, other than a licensed retailer, brewer, distributor or microbrewer, to remove or obliterate a keg identification tag;
4. To knowingly provide false information on a keg registration form or to sign a keg registration form knowing the information contained in the form is false;
5. For any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to possess a keg without an affixed keg registration tag;
6. Except for the five-day period in (f)(1) for kegs purchased outside Powell County, for any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to keep a keg at any place or places other than the location or property address or addresses identified on the keg registration form, except for transporting a keg to and from the licensed premises or between the locations or addresses identified on the keg registration form.

H. Any keg sold or kept in violation of this section may be confiscated by any law enforcement officer and, upon conviction of the seller or keeper thereof, the keg or any deposit paid to the retail licensee who sold the keg shall be forfeited to the Powell Fiscal Court.

I. The County ABC Administrator may charge a reasonable fee for furnishing the keg identification tag and keg registration form, which fees shall be used to pay the costs of implementing and enforcing this section. The County ABC Administrator is authorized to promulgate reasonable regulations to implement the provisions of this section.

Section 19 - Beverage Service Training

A. All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the STARS Training program available thru the State ABC website.

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 20 - Signage and Advertising

A. All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the County of Powell and all signage and advertising needs to be approved by the ABC Board prior to displaying. Must present to the ABC board (1) one month in advance. The ABC Board has the right to deny such request.

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

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

D. No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the

use of terms such as “high test”, “high proof” or “extra strong”) or depicting activities that tend to encourage excessive consumption.

E. No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.

F. Any off-premises signage advertising the sale of alcoholic beverages is only allowed for those who have a county local alcohol license. This prohibits anyone outside of the Powell County ABC Ordinance and license holders to advertise. All advertising has to be approved by the Powell County ABC board prior to displaying and needs to be requested at least (1) one month in advance. The ABC Board has the right to deny such request. This also means only advertising locations within the Powell County ABC Ordinance. No more than three off premise signs are allowed per business. An off premise sign is defined as a professional permanent structure and in lasting nature of 6 months or greater.

G. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages. However, generic words can be used for advertising alcoholic beverages but must first be approved by the Powell County ABC Board and must be requested (1) one month in advance.

H. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it 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 windows of the licensed premises business cards not larger than two and one-half inches (2-1/2") in size, setting forth the price at which the licensee offers alcoholic beverages for sale.

I. It shall be unlawful for a licensee under this Ordinance to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

J. No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

Section 20 – 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 22 - Implementation

A. The Powell 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.

FIRST READING: May 11th 2021

SECOND READING: May 28th 2021

APPROVED: May 28th 2021

ATTEST: Annis Craftman