

COMMONWEALTH OF KENTUCKY
BRECKINRIDGE COUNTY FISCAL COURT

ORDINANCE NO. 2013-1125

AN ORDINANCE AMENDMENT REPEALING AND REPLACING ORDINANCE NO. 2013-0311 PERTAINING TO THE COMPREHENSIVE REGULATION OF THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE COUNTY OF BRECKINRIDGE, KENTUCKY.

WHEREAS, a local option election was held on January 29, 2013, pursuant to KRS Chapter 242 to address the issue as to whether the County of Breckinridge should permit the sale of alcoholic beverages within Breckinridge County; and

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

WHEREAS, based upon documented experiences of other governmental units in the Commonwealth of Kentucky, the Breckinridge Fiscal Court finds it necessary to regulate the use of alcoholic beverages within Breckinridge County in order to protect the health, safety, and welfare of the citizens of the County; and

WHEREAS, the Kentucky General Assembly passed Senate Bill 13 into law during the 2013 legislative session which became effective on June 25, 2013; and

WHEREAS, as a result of the passage of Senate Bill 13, many of Kentucky's alcoholic beverage statutes were amended; and

WHEREAS, the Breckinridge Fiscal Court finds it necessary to repeal and replace Ordinance No. 2013-0311 in order to regulate the sale and distribution of alcoholic beverages within the county of Breckinridge in accordance with the new provisions of the Kentucky Revised Statutes as amended by Senate Bill 13;

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of the County of Breckinridge, Commonwealth of Kentucky, as follows:

SECTION 1: GENERAL PROVISIONS

1.01 TITLE

This ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of Breckinridge County, Kentucky.

1.02 DEFINITIONS

The definitions contained in KRS 241.010 are adopted as the meaning of such words as used in this Ordinance.

1.03 INCORPORATION OF STATE LAW

(A) The provisions of KRS Chapters 241, 242, 243, and 244, are hereby adopted as part of this Ordinance, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "County" means Breckinridge County, Kentucky.

(B) Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this Ordinance.

(C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.

(D) All prohibitions, restrictions, and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the County.

1.04 SCOPE OF COVERAGE

(A) This ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverage" or "alcoholic beverages" shall mean and shall include distilled spirits, wine, and malt beverages.

(B) Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the County where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance or ordinances of the County or of any State statutes or regulations.

1.05 DEPOSIT OF FEES, FINES TO GENERAL FUNDS

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

1.06 NOTICE TO STATE ABC BOARD OF FEES LEVIED

This ordinance is and shall be subject to the provisions of KRS 243.600. Breckinridge County shall give notice to the State Alcoholic Beverage Board of any fees or assessments fixed and/or levied under the provisions of this ordinance.

SECTION 2: ADMINISTRATION

2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

Pursuant to KRS 241.110, the duties of the Breckinridge County Alcoholic Beverage Control Administrator ("County ABC Administrator") as hereinafter established in this ordinance shall be assigned to the office of the county Judge/Executive ("Judge"). The Judge shall have the power and authority to decline to accept said office, or after accepting same, he may resign therefrom, and in either event, he may thereupon appoint the person to serve at the pleasure of the County Judge/Executive as the County ABC Administrator for the county in accordance with the provisions contained in KRS 241.110. The County ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter, pursuant to KRS 241.140.

2.02 FUNCTIONS, DUTIES AND POWERS

(A) The functions of the County ABC Administrator shall be the same with respect to the County's alcohol licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State Board") with respect to State alcohol licenses and regulations, as provided in KRS 241.140, except that no regulations of the County ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control or the regulations of the State Board. No regulation of the County ABC Administrator shall become effective until it has been appropriately approved by Breckinridge County Fiscal Court.

(B) The County ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses by the County as the State Board has with respect to alcohol licenses issued by the State under KRS 241.110 and KRS 241.140.

(C) Any person desiring to obtain a license to sell or disperse wholesale or retail distilled spirits or malt beverages shall make application to the Administrator on appropriate forms provided by the Administrator. If, in the judgment of the Administrator, the

applicant has complied with all requirements of the state and local alcoholic beverage control law, an appropriate license shall be issued.

(D) The Administrator shall, in the exercise of sound discretion, refuse to issue or renew an alcoholic beverage license to any person who has not conducted his business in a decent, orderly manner, or who is known to conduct or encourage a disorderly place of business or who permits or engages in disorderly conduct, or who may not be licensed pursuant to KRS 243.100 or any other federal, state, or local laws, ordinances, or regulations. It is hereby deemed and declared to be in the best interest of public health, welfare and safety that the Administrator shall have discretion to issue such licenses as he deems will stimulate the local economy and promote the general welfare of the County of Breckinridge.

(E) The Administrator shall make an annual written report of his office to the Fiscal Court.

2.03 RIGHT OF INSPECTION

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

SECTION 3: LICENSING REGULATIONS

3.01 NUMBER AND TYPE OF LICENSES

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

3.02 LICENSE REQUIRED FOR SALE

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

3.03 TYPE OF LICENSES; FEES

(A) With respect to limited restaurant licenses:

Bonafide restaurants open to the general public having dining facilities for not less than one hundred (100) persons,

(1) The term "limited restaurant" as used in this section shall have the same meaning as currently provided at KRS 241.010(a), to-wit: "A facility where the usual and customary business is the serving of meals to customers, that has a bona fide kitchen facility, and that receives at least seventy percent (70%) of its gross receipts from the sale of food which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory."

(B) **Types of License for Distilled Spirits and Wine; Annual Fees:**
The County shall have the power and authority to issue the following type of license for the sale and trafficking in distilled spirits and wine, upon proper application and payment of the below prescribed annual fees. All license fees indicated are on a per annum basis, unless otherwise expressly indicated.

(1) **Types of Retail Licenses Defined**

A. Limited Restaurant License: This license shall authorize the retail sale of distilled spirits, wine, and malt beverages (beer) by the drink only.

B. Retail Package License (distilled spirits and wine): This license shall authorize the retail sale of distilled spirits and wine for consumption other than on the premises.

(2) **License Fees—Distilled Spirits and Wine**

TYPE OF LICENSE		FEE
A	Limited Restaurant License	\$1400.00
B	Retail Package License	\$1000.00

(3) **Malt Beverage Licenses: Fees**

The County shall have the power and authority to issue the following types of licenses for the sale and trafficking of malt beverages upon proper application and the payment of prescribed fees as set forth below. All fees stated are on a per annum basis, unless otherwise expressly indicated.

	TYPE OF LICENSE	FEE
A	Retail Malt Beverage License Nonquota Type 4 Retail Malt Beverage Drink License (NQ4)(3)	\$400.00
B	Nonquota Retail Malt Beverage Package License	\$400.00
C	Retail Malt Beverage License Nonquota Type 4 Retail Malt Beverage Drink License (NQ4)(3) AND Nonquota Retail Malt Beverage Package License	\$450.00

(4) Special Temporary Licenses

(a) Special Temporary License

(1) The County shall have the power and authority to issue a special temporary license upon proper application and payment of the prescribed fee. This license shall authorize the retail sale and consumption of malt beverages and wine or inn on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events or other approved public events.

(2) The fee for this license shall be \$50.00 per event.

(5) Nonquota Type 3 (NQ3) Private Club; Fee Required

(a) The County shall have the power and authority to issue a NQ3 license to any nonprofit social, fraternal, military or political organization or club which maintains or operates designated premises from which the general public is excluded. All restrictions and prohibitions otherwise applying to a malt beverage and/or distilled spirits and wine retail drink licensee shall apply to a special private club licensee.

(b) In order to assure that the general public is excluded from the designated premises of a NQ3 license holder, the following guidelines must be met:

(1) Each private club member shall be issued a membership card which can be readily produced while visiting said club.

- (2) Each private club member shall be limited to no more than two (2) non-member guests at any club function or event; and
- (3) A written log shall be maintained of all non-member guests.
- (4) The fee for this category of license shall be:

TYPE OF LICENSE	FEE
Special Private Club License, (NQ3)	\$300.00
Supplemental Bar License	\$310.00

3.04 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED

This Ordinance shall not be construed to authorize Sunday sales of alcoholic beverages.

3.05 LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this Ordinance shall be made for each license year, which, in order to coincide with the State license year, shall begin the first day of May and extend through the last day of April of the succeeding year. Applications for renewal are to be filed with the Administrator no less than fifteen (15) nor more than forty-five (45) days prior to expiration.

3.06 PRORATION; REFUNDS PROHIBITED

Proration of fees shall be as provided for State licenses in KRS 243.090. In the event any licensee shall cease doing business for any reason, no refund of the license shall be granted to such licensee.

3.07 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT

(A) The assignment, transfer, continuance, pledge or hypothecation of licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650, and 243.660. An approval of the State, under those statutes, shall be deemed an approval by the County. Non-approval by the State shall be deemed non-approval by the County. No license may be sold or otherwise transferred (including transfer to any premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgment of the Administrator is given. A transfer fee of \$25.00 shall be paid to the County.

(B) When a license has been lost or destroyed, the Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.00.

3.08 LOCATION OF BUSINESS RESTRICTED

Licenses under this Ordinance shall not authorize the conduct of business in any place other than that specifically described in the original State application and license. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require a supplemental bar license.

3.09 APPLICATION; CONTENTS; EMERGENCY ACTION

An applicant for a license under this ordinance shall file with the Administrator a copy of such applicant's State license application containing the information required by KRS 243.380 and 243.390. The application shall include the consent of the applicant permitting the Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the Administrator, which review shall occur within thirty-six (36) hours of the imposition of the temporary closure.

3.10 APPROVAL OR DENIAL OF APPLICATION

(A) Upon review of the application, the Administrator may approve the application if the Administrator determines that:

- (1) The applicant has complied with all requirements of the State Alcoholic Beverage Control law, as well as all regulatory provisions of this Ordinance.
- (2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220;
- (3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and
- (4) There are no other causes for denial of the license.

(B) If the Administrator has reasonable ground to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the Administrator may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The Administrator shall have the right to order, and the applicant shall have the right to request an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by KRS Chapter 243.

3.11 PAYMENT OF FEES

Upon approval of the application by the Administrator, the applicant shall pay to the County Treasurer the amount of the license fee provided in this ordinance in the form of a certified check, check or money order. Payment shall be held on by the County pending State license approval and issuance of the license by the State Administrator.

3.12 POSTING OF LICENSES; PUBLIC RECORD

Each license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each license shall remain in the Administrator's office as part of the public record.

3.13 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Under the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to provisions of the Kentucky Revised Statutes, and this ordinance, as they may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the County. Therefore, it is necessary that a licensee actually conduct the business, may suffer an interruption of business by situations not under the licensee's control, various exceptions to this dormancy rule are included in subsection (B).

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

(C) Applications approved by the Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Extensions may be granted by the Administrator as he deems appropriate in exercise of sound discretion based on facts and circumstances surrounding each request.

(D) Applications for renewal of licenses and payment of the license fee must be on file with the Administrator at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be canceled. However, the licensee may file a written, verified statement at least fifteen (15)

days prior to the expiration date of the license, setting forth facts justifying an extension. The Administrator may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

3.14 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) Causes for refusal to issue or renew a license and for suspension or revocation of a license shall be the same as provided for State licenses according to KRS 243.450, 243.500, as well as violation of any ordinance regarding alcoholic beverage licensing, sales, the administration of licenses, or a licensee allowing conduct on the licensed premises which is prohibited by this Ordinance.

(B) No license to sell alcoholic beverages shall be granted or renewed to any person or other entity delinquent in the payment of any taxes or fees due the County at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes or fees due the County. If a licensee becomes delinquent in the payment of any taxes or any fees due the County at any time during the license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The Administrator may, in his discretion, approve a license to sell after receiving from the County Clerk, a written statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety percent (90%) of the total projected gross receipts from sales made at the licensed premises during the twelve (12) month period following the issuance of the license shall consist of the projected gross receipts from sales of alcoholic beverages. No retail package liquor shall be renewed for any premises unless ninety percent (90%) of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.

(D) Appeals may be taken from decisions of the Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

SECTION 4: SALE OF ALCOHOLIC BEVERAGES

4.01 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the County

unless first procuring a license under the provisions of this Ordinance, all state statutes, and all regulations adopted pursuant thereto. This Ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action which obviates the State license shall also operate to invalidate the corresponding County license.

4.02 HOURS OF SALE

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday and Christmas.

(B) Premises for which there has been granted a license for other retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday and Christmas. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with subsection.

(C) Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight each day except that no such sale shall be made during the twenty-four (24) hours of each Sunday and Christmas. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(D) Any licensee for sale of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the Administrator.

(E) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented, or leased to anyone during closing hours for a party or for any other purposes.

(F) Wholesalers shall not deliver alcoholic beverages on Sunday.

4.03 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS

A licensee of a premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State law or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State law, and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the Administrator is hereby authorized to confiscate the alcoholic beverages.

4.05 ADVERTISING RESTRICTIONS

(A) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this Ordinance.

(B) It shall be unlawful for any person holding any license under this Ordinance to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this Ordinance shall be in compliance with this Ordinance, KRS 244.130, and any regulation promulgated pursuant to KRS 244.130.

4.06 RETAIL SALES TO CERTAIN PERSONS PROHIBITED

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(C) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony within the preceding twelve (12) months.

**4.07 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES
NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION**

(A) As used in KRS 244.083 and this section "premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(B) With regard to persons under 21 years of age:

- (1) Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty-one (21) years on the licensed premises unless such premises is a restaurant, grocery store, or hotel. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.
- (3) Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.
- (4) The prohibitions set forth in subsections (1), (2), and (3) shall not apply to persons under the age of twenty-one (21) years of age who are working on the premises, either as an employee or an independent contractor, which persons may enter and

remain on said premises while they are working, and at no other time.

(C) A licensee or any of his or her clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she:

(1) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises;

or

(2) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverages.

(D) In the event a violation occurs under the provisions of this section, the Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the Administrator, after a hearing, shall suspend or revoke said license.

(E) No person under twenty-one (21) years of age shall possess for his own use, or purchase or attempt to purchase or have another purchase for him, any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him any alcoholic beverages.

(F) No person under twenty-one (21) years of age shall misrepresent his age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.

(G) No person under twenty-one (21) years of age shall use, or attempt to use, any false, fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

4.08 LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) years are subject to a fine up to one hundred dollars (\$100.00) if they:

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

4.09 MANDATORY RESPONSIBLE TRAINING

(A) "Server" for purposes of this section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premises licensed for the sale of alcoholic beverages where alcoholic beverages are sold or dispensed by the drink or where malt beverages are sold for consumption on the premises and whose job duties include the sale, dispensing, or service of alcoholic beverages or the management of the licensed premises.

(B) All persons employed in the selling and or serving of alcoholic beverages/package shall participate in and complete the State approved Server Training in Alcohol and Regulations (S.T.A.R.) Program.

(C) All persons required to complete training under paragraph (A) and (B) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in the (S.T.A.R.) Program not less than once every three years thereafter.

(D) The manager of the restaurant/business shall be responsible for compliance with the training requirements and shall maintain for inspection by the Administrator a record or file on each employee that shall contain the pertinent training information.

4.10 LICENSE PREMISES

(1) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(2) Acts which constitute disorderly premises consist of permitting

patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

- a. Engaging in fighting or in violent, tumultuous or threatening behavior; or
- b. Making unreasonable noise; or
- c. Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or
- d. Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- e. Drinking in the parking lot, at the curb, or directly outside the licensed premises.

4.11 DRINK SPECIALS

Any licensee shall be prohibited from offering reduced price specials (e.g. discounts, Two-For-One, happy hour etc.) from 6:00 p.m. to closing.

4.12 ADULT ENTERTAINMENT

Licensees cannot permit lewd, immoral or obscene entertainment, activities, or advertising materials on or inside the premises.

SECTION 5: GENDER NEUTRALITY

5.01 GENDER NEUTRALITY

The terms he, his, or any other masculine description utilized in this ordinance shall be interchangeable with the terms she, her, or any other feminine description and vice versa.

SECTION 6: PENALTIES

6.01 PENALTY FOR NONPAYMENT

If the holder of any license shall fail to pay the regulatory license fee imposed by this Ordinance within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the Administrator may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

6.02 INFRACTION CONSTITUTES A MISDEMEANOR

(A) Any person, firm, LLC, corporation or other legal entity which violates any provision of this Ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

- (1) For the first offense a fine not to exceed five hundred dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
- (3) Any proceeding for the revocation or any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

(B) In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the Administrator.

SECTION 7: SEVERABILITY**7.01 SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 8: OTHER REGULATIONS AND ORDINANCES**8.01 REPEAL**

All other regulations and Ordinances of Breckinridge County in conflict with the provisions of this Ordinance, including Ordinance No. 2013-0311, are hereby repealed.

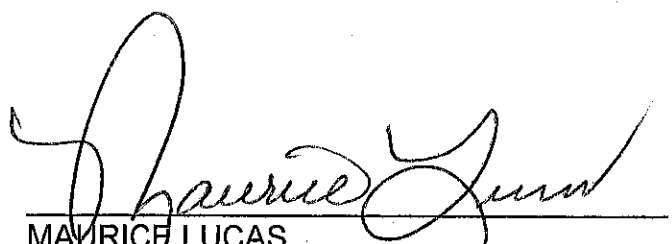
SECTION 9: EFFECTIVE DATE**9.01 PASSAGE**

Introduced and given first reading at a regularly scheduled meeting of the Breckinridge County Fiscal Court on 11-25-13, and fully adopted after the second reading at the regularly scheduled meeting of the Breckinridge County Fiscal Court on 12-9-13. This ordinance shall take effect and be in full force and

effect when passed, published, and recorded according to law but no sooner than December 26, 2013.

DATED:

12/9/2013


MAURICE LUCAS
Breckinridge County Judge/Executive

ATTESTED:

Kathina Bell
KATHINA BELL
Breckinridge County Fiscal Court Clerk

FILED December 11 2013
BRECKINRIDGE COUNTY CLERKS OFFICE
Jill Irwin CLERK

RECORDED IN BRECKINRIDGE COUNTY
CLERKS OFFICE IN Fiscal Court Order
BOOK NO. 34 PAGE 279-297

MINUTES
BRECKINRIDGE COUNTY FISCAL COURT
Regular Meeting
Monday, December 9, 2013
9:00 A.M.

OLD BUSINESS

RE: 2nd Reading, Ordinance No. 2013-1125, Alcohol Ordinance

Esquire Moore moved, seconded by Esquire Henning, to approve 2nd Reading and adoption of Ordinance No. 2013-1125, an ordinance amendment repealing and replacing Ordinance No. 2013-0311 pertaining to the comprehensive regulation of the sale and distribution of alcoholic beverages within the County of Breckinridge, Kentucky. Judge Lucas called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Approval: Electrical Inspector Contract

Esquire Greenwell moved, seconded by Esquire O'Donoghue, to approve the Electrical Inspector Contract.

Esquire Greenwell moved, seconded by Esquire O'Donoghue, to approve the Electrical Inspector Contract and authorize Judge-Executive, Maurice Lucas to sign the contract on behalf of the court. Judge Lucas called for a vote on the motion, ALL PRESENT VOTING AYE (7-0)

Esquire Greenwell moved, seconded by Esquire O'Donoghue, to approve as amended. Judge Lucas called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).
Exhibit "C-120913"

NEW BUSINESS

RE: Request: Payroll Change due to Christmas Holiday

Judge Lucas requested a payroll change date from Wednesday, December 25, 2013 to Monday, December 23, 2013 due to the Christmas holiday. Esquire Beavin moved, seconded by Esquire Bosley, to approve the payroll change date. Judge Lucas called for a vote on the motion, ALL PRESENT VOTING AYE (7-0).

RE: Appointment: Breckinridge County Public Library Board

Judge Lucas explained that due to the resignation of Jonathan Boyd the Kentucky Department for Libraries & Archives submitted the following names for consideration in filling the vacancy (new term to expire June 30, 2014): Shannon Loughran and Greta Akridge. Esquire O'Donoghue moved, seconded by Esquire Beavin, to appoint Shannon Loughran to the Breckinridge County Public Library Board of Trustees. Judge Lucas called for a vote on the motion, ALL PRESENT VOTING AYE (7-0). Exhibit "D-120913"