

**CITY OF HARDINSBURG, KENTUCKY  
ORDINANCE NO. 2013-08**

**AN ORDINANCE ALLOWING RETAIL ALCOHOL SALES WHILE ELECTION  
POLLS ARE OPEN**

That, Whereas, the City of Hardinsburg is required by Kentucky law to allow the retail sale of alcoholic beverages while the election polls are open in the City of Hardinsburg; and

That, Whereas, the City of Hardinsburg is also required by Kentucky law to allow any establishment licensed to sell any such alcoholic beverages in the City of Hardinsburg remain open for business while the election polls are open.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, as follows:

1. Any premises that is licensed to sell any alcoholic beverages, including distilled spirits, wine or beer, at retail stores located in the corporate limits of the City of Hardinsburg shall be permitted to remain open during the hours that the election polls are open on any regular or primary election day.

2. Any person or entity licensed to sell alcoholic beverages, including distilled spirits, wine or beer, in the corporate limits of the City of Hardinsburg shall be permitted to make any sale of such beverages in the City during the hours that the election polls are open on any regular or primary election day.

Section III

All ordinances, or the parts of any ordinances, in conflict with this ordinance are hereby repealed to the extent of any such conflict.

Section IV

This Ordinance shall be effective immediately upon its passage, approval and publication as required by law.

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CITY OF HARDINSBURG, KENTUCKY  
CLERK OF COURTS

Introduced, read, and passed upon its first reading on this 10<sup>th</sup> day of June, 2013.

Read, passed, and finally adopted upon its second reading on this 25<sup>th</sup> day of June, 2013.

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**WAYNE MACY, MAYOR  
CITY OF HARDINSBURG, KENTUCKY**

**ATTEST:**

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**HOLLY FOWLER, CITY CLERK  
CITY OF HARDINSBURG, KENTUCKY**

**CITY OF HARDINSBURG, KENTUCKY  
ORDINANCE NO. 2010-04**

**AN ORDINANCE OF THE CITY OF HARDINSBURG, KENTUCKY RELATED TO THE LICENSING, REGULATING AND TAXING OF RESTAURANTS AND DINING FACILITIES FOR THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK WHEN SUCH FACILITIES SEAT A MINIMUM OF FIFTY (50) PERSONS AND DERIVE A MINIMUM OF SEVENTY PERCENT (70%) OF GROSS RECEIPTS FROM THE SALE OF FOOD.**

WHEREAS, KRS 242.1244 authorizes, by petition in accordance with KRS 242.020, a city in which prohibition is in effect, to hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food if said alcoholic beverages are purchased in conjunction with a meal; and

WHEREAS, KRS 242.1244 further authorizes one local government of a jurisdiction in which such alcoholic beverage sales are authorized and permitted to adopt rules and regulations and establish fees or taxes with regards to such sales along with any other reasonable administrative regulations as may be necessary for the enforcement or administration of that statute, and the rules and regulations and taxes and fees adopted pursuant to this authority shall conform to the requirements of KRS 241.190 and KRS 242.185; and

WHEREAS, a local option election was conducted pursuant to KRS 242.1244 for the limited sale of alcoholic beverages in the City of Hardinsburg, and the majority of voters voting thereon approved of such; and

WHEREAS, KRS 242.1244 and KRS 242.185 and all other applicable State laws permit the imposition of an annual license fee and a regulatory fee,

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which is based upon the gross receipts of each establishment's license in the City to sell alcoholic beverages; and

WHEREAS, the above statutes further provide for the establishment and collection of certain fees, fines and penalties related to the limited sale of alcoholic beverages; and

WHEREAS, the regulatory fee which is thereby authorized is to be set at a percentage rate as shall be reasonably estimated as to fully reimburse the City for the estimated costs of any additional police, regulatory and administrative expenses relating to the sale of alcoholic beverages in City; and

WHEREAS, the Hardinsburg City Council estimates that the additional costs listed above which are expected to be incurred for policing and regulating the sale of alcoholic beverages within the City of Hardinsburg to be in the range of eight percent (8%) of the gross sales of alcoholic beverages in the City; and

WHEREAS, the City Council also believes that it is in the best interest of the City and its residents that reasonable hours for such licensed activity need to be established; and

WHEREAS, the City Council is further desirous of creating and imposing certain and proper restrictions and regulations for obtaining, holding and exercising a license herein, including the creation of a City ABC Administrator and a description of his or her duties and functions, as well as regulations, appeals and penalties as to all such licenses.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED BY THE CITY OF HARDINSBURG, KENTUCKY, as follows:



## SECTION I

### -General Purpose; Definitions

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing, taxing and regulation of alcoholic beverage sales pursuant to KRS 242.1244, and all other applicable law, for any restaurant or dining facility which seats a minimum of fifty (50) persons and which derives a minimum of seventy percent (70%) of its gross receipts from the sale of food. Such beverages, however, can only be purchased and sold in conjunction with a meal. To realize this intent, the City of Hardinsburg shall implement this Ordinance in such a manner as to assure that:

- (1) Restaurants and dining facilities licensed and regulated under this Ordinance shall seat a minimum of fifty (50) persons. Only permanent seating, excluding bar type stools, patio seating or temporary chairs or seats available as needed, satisfies this seating threshold. Said seating must also comply with all fire and safety capacity ratings and regulations
- (2) The sale of alcoholic beverages shall be in conjunction with the sale of food or a meal, and shall be offered only during times in which the licensee's kitchen and food services are on duty and the licensee's kitchen is serving food.
- (3) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy percent (70%) of their gross receipts from the sale

of food as certified by periodic documentation provided by the licensee to the City.

Definitions:

The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those definitions set out in the Kentucky Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243, and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

SECTION II

-Licenses

Scope

This Ordinance shall only apply to the sale of malt beverages, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereto, from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, all of which are adopted herein and incorporated by reference hereto so far as applicable to this Ordinance, except as otherwise lawfully provided herein.

Specifically, each restaurant or dining facility obtaining a license hereunder shall be referred to herein as a "licensee." All such businesses must

qualify under and be compliant with the provisions of KRS 242.1244, and the licensees may be regulated and taxed in accordance with KRS 242.185 (4) and (5).

### SECTION III

#### -Application/License

1. All applicants for an alcoholic beverage license pursuant to this Ordinance must submit the appropriate application for the issuance of a State license as provided in KRS 243.380 and all other applicable State laws.

2. Pursuant to KRS 243.370 and all other applicable State laws, an applicant for an alcoholic beverage license hereunder must first have the required State license application approved by the City ABC Administrator before the applicant is eligible to apply for a State license. An applicant for a license under this Ordinance shall file with the City ABC Administrator a copy of the State license application as required by the State, along with the required City license application. Upon approval of the City and State applications by the City ABC Administrator, the State application shall be submitted to the appropriate State agency for consideration.

3. The City ABC Administrator (see below) shall prepare an application which is no less restrictive than the requirements imposed by the State of Kentucky, which shall be presented to a proposed licensee. It shall be fully and accurately completed by the licensee. Failure to fully and accurately complete such application shall be grounds for a revocation or denial of a license.



4. Before an application shall be considered, the applicant must publish a notice of intent to apply for an alcohol beverage license in a newspaper meeting the requirements of KRS Chapter 424, including as follows:

(a) The advertisement shall state the names and addresses of the members of the partnership, if the applicant is a partnership, 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 names 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.

5. All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the terms provided by the State ABC Board and the City of Hardinsburg, as amended and supplemented from time to time.

6. The application shall be verified and properly subscribed and sworn before a notary public and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as is required by the

Kentucky Revised Statutes, the State ABC Board and the City of Hardinsburg, including as follows:

- a. Name and address of premises;
- b. Nature of interest;
- c. Whether or not a citizen of the United States;
- d. Date of birth;
- e. Date residence was established in Kentucky, if a resident of Kentucky.

If a City of Hardinsburg resident, indicate when the residence was established.

- f. Whether or not he or she has any interest in any other license or in a corporation or partnership holding a license under this Ordinance;
- g. Extent of stock ownership;
- h. Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

Each application shall be accompanied by check or cash for the license fee.

7. All applicants shall provide to the City a Kentucky police record/criminal background check from the Kentucky Administrative Office of the Courts (KAOC).

8. All City licenses shall be in such form as may be prescribed by the City Council, and shall contain:

- a. The name and address of the licensee;
- b. The number of the 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 is located;
- f. The expiration date of the license;
- g. A statement in substance that the license shall not be considered a property or vested right and that it may be revoked or suspended at any time pursuant to law.

9. All licenses approved by the City ABC Administrator and issued by the City of Hardinsburg shall begin on July 1 of any year and shall expire at midnight on the last day of June of the following year.

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

11. Any licenses issued after December 31 of any year shall be assessed a fee which is based on the prorated portion of the remainder of the license period. However, the cost of any license shall not be less than one for a period of six (6) months.

12. In the event a violation of this Ordinance occurs that requires the revocation or suspension of the license of the licensee, the City shall not be required to refund any portion of the license fee to a licensee.



## SECTION IV

### -Lost or Destroyed Licenses

When a license shall be lost or destroyed without any fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the principal license shall be issued by the City ABC Administrator after he or she is satisfied as to the facts of such lost or destruction of the license; provided, however, that the person applying for said duplicate license shall pay to the City a fee of ten dollars (\$10.00) for issuing said duplicate license.

## SECTION V

### -Licensing and Regulatory Fees

#### 1. Annual License Fee:

Pursuant to KRS 243.070, the annual City license fee for the limited sale of wine, distilled spirits, and/or malt beverages permitted by the limited restaurant and dining facility license provided for hereunder shall be \$800.00. This fee shall be amended from time to time and increased when the applicable State statute allows for such an increase.

#### Refund of License Fee

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic beverages or because of any other causes outside the licensee's control, the City shall refund to it the proportionate part of the license fee for the period of time during which it is prevented from carrying on said business if the

licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not due to the fault of the licensee or the result of a revocation, suspension or other wrongdoing by the licensee, or an agent or employee of the licensee.

2. Annual Regulatory Fee:

a. Pursuant to KRS 242.1244 and KRS 242.185 (5), each restaurant or dining facility shall further pay an annual regulatory fee in the amount of eight percent (8%) of that person's or business establishments's gross receipts on the sale of alcoholic beverages in the City of Hardinsburg. The fee shall be paid to the City of Hardinsburg quarterly and shall be accompanied by a completed and signed form that reports on the amount of sales of alcoholic beverages during the reported period. Copies of the forms required to be submitted to the City shall be made available by the City Clerk or the ABC Administrator of the City of Hardinsburg. These returns and payments are due no later than by the end of the month immediately following the end of each calendar quarter. Licensees shall receive an annual \$800.00 credit against this regulatory fee as being the amount paid for the annual limited restaurant/dining license fee provided for herein. This regulatory license fee may be amended from time to time to correspond with any increase in the estimated costs for any additional policing, regulatory or administrative related expenses as a result of the sale of alcoholic beverages in the City of Hardinsburg.

b. A failure to pay such quarterly regulatory fee within ten (10) days of the due date hereunder shall constitute a violation of this Ordinance and shall subject the licensee to a suspension or revocation of his or her license.

c. The penalty for failure to file a return and pay the quarterly tax remittance by the due date is five percent (5%) of the tax for each ninety (90) days or any fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax due; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).

d. Interest at the rate of eight percent (8%) per annum will also apply to any late payments, accruing from the date when such payments are first due.

## SECTION VI

### -Days and Hours for Sale

1. The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink and conduct the activities licensed hereunder during the following days and hours: Monday through Saturday, between the hours of 11:00 a.m. and 12:00 a.m., midnight.

2. The licensee may sell alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from the City. If New Year's Eve falls on a Sunday, alcoholic beverages may be sold commencing at 2:00 p.m.; if New Year's Day falls on a Sunday, then alcoholic beverages may be sold until 2:00 a.m. on January 1. In either event, there shall be no additional City license fees imposed.



3. The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the election polls are open on any regular or primary election day.

4. During the closing hours, the premises of any licensee for the sale of alcoholic beverages by the drink shall be closed to and vacant of all customers and all persons except the licensee and its 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 closing hours, including employees, and no parties, private or public, shall be conducted on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purpose.

## SECTION VII

### -Mandatory Responsible Beverage Service Training

1. All licensees, employees or persons involved in the selling and serving of alcoholic beverages shall be at least twenty (20) years of age. They must all participate in and complete a City-approved responsible beverage service training program approved by the ABC Administrator of the City of Hardinsburg. Before approval of the program, the Administrator shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The City will not require enrollment in any particular classes, but only that the training be obtained from a recognized training program meeting the goals expressed in this Ordinance.

2. The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:

- a. Pertinent Federal, State and Local laws related to the sale of alcohol;
- b. Verification of age, forms of identification and usual methods of false or misleading age identification;
- c. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects; and
- d. Recognition of the signs of intoxication.

3. All persons required to complete training under paragraph 1 above shall complete that training within ninety (90) 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 responsible beverage service training from a program approved by the City not less than once every three (3) years thereafter.

4. The manager of the restaurant or dining facility shall be responsible for compliance with the training requirements of this Ordinance and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information of the employee.

5. Each restaurant or dining facility licensed by this Ordinance shall at all times that alcoholic beverages are being served have at least one (1) person

currently certified in responsible beverage service training, as required in paragraphs 1 and 2 above, on duty.

6. A person under the age of twenty (20) years may not take an order for, serve or sell an alcoholic beverage.

## SECTION VIII

### -Books, Records and Reports

1. Every licensee under this Ordinance 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 State ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and any such City employees who may assist the City ABC Administrator in his or her review.

2. For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to file any reports to the State ABC Board under KRS 243.850 shall provide a copy of each such report to the City ABC Administrator. Copies of any and all other reports and other correspondences to the State ABC Board required by statute shall be furnished to the City ABC Administrator.

3. Any authorized State and local investigator may inspect any licensed premises, without first obtaining a search warrant.



## SECTION IX

### -Signs and Advertising

1. All signage shall be in compliance with any and all other existing rules, regulations, and ordinances of the City of Hardinsburg and the City of Hardinsburg Planning and Zoning Commission.

2. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign per premises not over two (2) square feet that must be displayed from the inside of the window or interior of the business premises. No additional signs, banners, posters or other types of display advertising which refer 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 menus or other price cards not larger than 11" X 14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages, or from placing in the windows business cards not larger than two and one-half inches (2 ½") in size, setting forth the price at which it offers alcoholic beverages for sale.

3. No flashing lights shall be used to illuminate the exterior of any licensed premises.

4. A licensee is not permitted to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

5. Any advertising by any licensee under this Ordinance shall be in compliance with KRS 244.130.

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

### SECTION X

#### -Minors and Intoxicated Persons

A licensee shall not permit any person less than twenty-one (21) years of age to purchase or possess alcoholic beverages under any circumstances, nor shall a licensee permit a person to become intoxicated on the licensed premises, nor permit any intoxicated person to be served alcoholic beverages, nor allow an intoxicated person to remain on the premises. It shall be the duty of every licensee to display at all times in a prominent place a printed card or sign not smaller than 12" X 16" in 30 point or larger type which shall read substantially as follows:

WARNING TO MINORS: ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) YEARS IS SUBJECT TO A FINE OF UP TO ONE HUNDRED DOLLARS (\$100.00) IF THEY:

1. Enter a licensed premises to buy, or have served to them, alcoholic beverages;

2. Possess, purchase, attempt to buy or get another to purchase, or have served to them, alcoholic beverages;
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

#### SECTION XI

##### -A Disorderly Licensed Premises is Prohibited

1. No person licensed to sell alcoholic beverages shall cause, suffer or permit the licensed premises to be or become disorderly.

2. Acts, which constitute a disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk to others through:

- a. Engaging in fighting or in violent, tumultuous or threatening behavior; or
- b. Making unreasonable noise; or
- c. Refusing to obey any 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 an act that serves no legitimate purpose; or
- e. Conducting promotional efforts that are not customary or usual for a restaurant operation or dining facility (e.g. wet t-shirt contest, mud-wrestling contest, shorty-shorts contest, etc.).



## SECTION XII

### -City Alcoholic Beverage Control Administrator

1. The Mayor shall appoint the Hardinsburg Alcoholic Beverage Control Administrator ("City ABC Administrator") and any additional personnel who may assist him/her. The salary, if any, for the Office of City ABC Administrator and personnel shall be fixed by the Mayor.

2. The City ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this Ordinance, pursuant to KRS 241.190 and KRS 241.060.

3. The functions of the City ABC Administrator shall be the same with respect to the City's alcoholic beverages licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State ABC Board") with respect to State alcoholic beverages licenses and regulations, as provided in KRS 241.190; except that no regulations of or amendments to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than the regulations of the State ABC Board. Regulations of the City ABC Administrator shall only become effective upon the appropriate approval of such by the Hardinsburg City Council.

4. The City ABC Administrator shall have all the authority as authorized under KRS Chapters 241 through 244.

5. No person shall be a City ABC Administrator, an Investigator, or an employee of the City under the supervision of the City ABC Administrator, who

would be disqualified to be a member of the State ABC Board under KRS 241.100.

6. The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the City as the State ABC Board has with respect to alcohol licenses issued by the State under KRS 241.060.

7. The City ABC Administrator, his or her subordinates, and/or the City of Hardinsburg law enforcement officers, by this Ordinance 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, the City ABC Administrator shall simultaneously receive copies of all reports by licensees to the State Alcoholic Beverage Control Board.

8. The City ABC Administrator, before entering upon his or her duties as such, shall take the oath prescribed in Section 228 of the Kentucky Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000.00).

9. The City ABC Administrator may require any City employee under his or her supervision to execute a bond similar to the Administrator's in such a penal sum as the City ABC Administrator deems necessary.

10. The cost of the bonds provided for in paragraphs 8 and 9 of this section shall be borne by the City, in accordance with KRS 241.180.

11. Should the City ABC Administrator at anytime have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require such person to appear at the City of Hardinsburg Police Department for the purpose of having his or her fingerprints taken.

12. Appeals from any order of the City ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator from which the appeal is taken. Such matters at issue shall be heard by the Board as upon an original proceeding and the appeal shall be governed in accordance with KRS 241.200, KRS 243.550 and all other applicable State laws. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

### SECTION XIII

#### -Refusal, Revocation or Suspension of License

1. Any license may be refused, revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the State ABC Board, or of the Department of Revenue relating to the regulation of the manufacture, sale, 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, transportation or taxation of intoxicating liquors, or of any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator, in the exercise of his or her sound discretion, deems sufficient.

2. A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known by him or her.

3. In addition to the above, the violation of any City Ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall also be grounds for a refusal to issue or renew a license or suspension or revocation of a license.

4. No license for the sale or trafficking of alcoholic beverages shall be granted or renewed as to any person or entity that is delinquent in the payment of any taxes or fees due to the City at the time of their application for a license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property owned and/or occupied by any licensee from which there is due to the City any delinquent taxes or fees.

5. If a licensee becomes delinquent in the payment of any taxes due to the City at anytime during a license period, his or her license to sell any alcoholic beverages shall be subject to revocation or suspension.

6. The City ABC Administrator may, in his or her discretion, approve a license to sell alcoholic beverages after receiving from the City Clerk a written statement to the effect that the applicant for a license has paid or made satisfactory arrangements with the City Clerk to pay any indebtedness owed to the City for any unpaid and delinquent taxes or fees.

7. Any license may also be refused, revoked or suspended for the following reasons:

- a. Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed.
- b. Making any false, material statement in an application for a license.
- c. If any licensee or if any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of any felony offense or convicted twice of any misdemeanor offense which is directly or indirectly attributable or related to the manufacture, sale or transportation of alcoholic beverages.
- d. Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any State statutes, this Ordinance or any acts of Congress relative to taxation, or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof.

e. Setting up, conducting, operating, or keeping on the licensed premises, any gambling game, device, machine, or contrivance, or lottery or gift enterprise, or any handbook or facility for betting or transmitting bets on horse races, or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

8. Within three (3) days after any order of revocation of a license becomes final, notice of the revocation shall be given to the licensee and to the owner of the licensed premises by the City. 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 provision. The licensee shall at once surrender his and her license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of the Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

9. When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.



10. If a license is suspended or revoked by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his or her license.

11. An appeal may be taken from any decision by the City ABC Administrator under this section to the State Alcoholic Beverage Control Board, pursuant to the provisions of KRS 241.200 and 243.550, and all other applicable State laws.

#### SECTION XIV

##### -Transfer or Assignment of License

No license issued under this Ordinance shall be transferred or assigned either as to the licensee or to the location, except with prior approval of the City ABC Administrator and a payment of a One Hundred Dollar (\$100.00) fee made payable to the City of Hardinsburg.

#### SECTION XV

##### -Approval or Denial of an Application or Renewal of a License

1. If upon review of a license application under this Ordinance, the City ABC Administrator determines that the applicant has complied with all the requirements and regulatory provisions of this Ordinance and of the applicable State law, that the premises sought to be licensed meets all the requirements of this Ordinance and applicable State law, and that there are no causes for denial of a license, the City ABC Administrator shall approve of the application and issue a license for the applicant.

2. The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his or her business premises shall have been approved by the Planning and Zoning Commission of the City, and any and all other inspections required by the Kentucky Building Code.

3. If the City ABC Administrator has reasonable grounds 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 violations and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine any violation set forth in the show cause order issued by the City ABC Administrator. Any such evidentiary hearing requested or ordered shall be presided over by the City ABC Administrator who, upon conclusion of the evidentiary hearing, shall issue a final order addressing each alleged violation. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided under this section and applicable State law.

4. Upon the issuance of a State license, the requested City license shall be issued, subject to the provisions of this Ordinance and the State laws concerning renewal, revocation and/or suspension of alcohol licenses.

5. Each City license issued under this Ordinance shall be posted at the licensed premises in the same manner as prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each City license issued under this

Ordinance shall remain in the City Clerk's Office as part of the official public record.

6. Any appeals from any decision of the City ABC Administrator under this section shall be made to the State ABC Board.

#### SECTION XVI

##### -Review of License

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicants's business income be earned from the sales of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. In the event the 70% food requirement is not met during any particular quarter, the City ABC Administrator shall have the discretion in determining whether revocation of the licensee's license is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an additional accounting period of at least one (1) year for the licensee in determining whether or not the 70% minimum food sales requirement has been met by the licensee.



## SECTION XVII

### -Change of Information

1. Since some alcohol licenses issued by the City may be in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can thereby investigate the person or entity to whom the stock is transferred in order to ascertain whether that person or entity is precluded by State statute or this Ordinance 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 the corporation, or change in ownership of stock whereby any person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock of a corporation shall require a new license from the City for the licensee.

3. The following information will be required concerning any new director, officer or person securing any interest in any alcoholic beverage license in the City:

- a. Name and address;
- b. Nature of interest;
- c. Whether or not a citizen of the United States;
- d. Date of birth;
- e. Date that residence was established in Kentucky, if a resident of Kentucky. If a City of Hardinsburg resident, indicate when residency was established.

- f. Whether or not he or she has any interest in any other license or in any corporation or partnership holding a license under this Ordinance;
- g. Extent of stock ownership;
- h. Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

This information shall be filed with the ABC Administrator as an amendment to the applicant's application pursuant to which the license under this Ordinance was granted.

### SECTION XVIII

#### -Term of License

1. All licenses issued under this Ordinance shall be valid for a period of not more than one (1) year. All licenses shall expire on June 30 of each year.

2. It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days of such dormancy.

3. Any license under which no business is transacted during a period of at least ninety (90) days shall become null and void. At the expiration of the ninety (90) day period, the license shall be surrendered by the licensee to the City ABC Administrator.

4. Paragraphs 2 and 3 shall not apply to any licensee whom is unable to continue in business at the premises for which a license has been issued due to forces, acts, circumstances or situations beyond his or her control, such as acts of nature (e.g., tornadoes, deaths, floods, fires) and acts of people (e.g., riots,

strikes, wars, governmental actions). Such licensee shall furnish to the City ABC Administrator, a verified statement setting forth the facts why the licensee is unable to continue in business at the licensed premises prior to the expiration of the ninety (90) days of inactivity, and the City ABC Administrator may grant an extension of the dormancy period with the license continuing to remain in effect during the license period or until the same is transferred to another premises, notwithstanding the fact that no business is being conducted during said period. However, no such license shall be considered valid unless business is conducted thereunder within twelve (12) months from the beginning date of the dormancy period. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate, in the exercise of his or her sound discretion.

4. Any renewal license must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the license for the preceding license period or the license shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period prior to the unforeseen and unusual circumstances with which the licensee had encountered making it impossible or impracticable to perform normal business activities. Said licensee suffering any such circumstances shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts and circumstances and the City ABC Administrator is hereby authorized to extend the time for the filing of a renewal of such license for a reasonable length of time,



within the sound discretion of the City ABC Administrator, provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said licensee fee shall not be payable until application is made for the transfer of said license to a new location.

## SECTION XIX

### -Conditions, Prohibitions and Restrictions

1. Alcoholic beverages under this Ordinance shall be sold incidental to the sale of a meal. Restaurants and dining facilities under this Ordinance shall not have an open bar and are specifically prohibited from selling alcoholic beverages to any person who has not purchased or who does not purchase a meal. Alcoholic beverages shall be deemed to have been purchased in conjunction with a meal if the alcoholic beverages are served after the meal is ordered and no more than one half (1/2) an hour after the meal is complete.

2. No gambling or games of chance, unless otherwise authorized by the Commonwealth of Kentucky, shall be permitted in any form on such licensed premises. Dice, slot machines or any device of chance are prohibited and shall not be kept on such premises.

3. It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police message broadcasts from any law enforcement agency. In addition to other penalties provided for the violation of this Ordinance, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving devices or apparatuses.

4. 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 health, safety and welfare of the general public utilizing the licensed premises.

5. The licensee, shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

6. The licensee, before commencing any business for which a license has been issued, shall post and display the business 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 at a premises other than the licensed premises or upon a premises where the 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.

7. The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language so applied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

8. Any off the premises signage advertising the sale of alcoholic beverages is prohibited.

9. No licensee shall knowingly employ in connection with his or her business any person who:

- a. Has been convicted of any felony offense;
- b. Has been twice convicted of any misdemeanor or other offense directly or indirectly related to the use of alcoholic beverages within the last two (2) years;
- c. Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under State statute;
- d. Within two (2) years prior to the date of his or her employment has had any City license under this Ordinance revoked for cause.

10. Violation of this subsection shall subject both the employer and the employee to penalties provided for in this Ordinance and shall be cause for a revocation or suspension of a license issued hereunder.

#### SECTION XX

##### -Investigation and Enforcement of Licenses and of the Premises

1. The City ABC Administrator, and any investigator acting under the authority of the City ABC Administrator, shall have the full police powers of peace officers within the boundaries of the City of Hardinsburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic



beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

2. City police officers and the City ABC Administrator are authorized to enforce this Ordinance with regards to any alleged violations.

## SECTION XXI

### -Penalties

1. Any person, firm or corporation who violates any of the provisions of this Ordinance for which no other criminal penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00), or imprisoned for not more than six (6) months, or both.

2. For a second and each subsequent violation, he/she or it is subject to a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or imprisoned for not less than six (6) months, nor more than twelve (12) months, or both.

3. In addition to any other penalty provided for herein or as provided for under any other applicable federal, state or local law or regulation, any licensee violating any provision of this Ordinance shall be subject to a suspension or revocation of any and all licenses issued under this Ordinance.

4. In addition to any other penalties provided for herein, the City ABC Administrator may assess a civil fine of not more than Five Hundred Dollars (\$500.00) for any violation of this Ordinance.

5. Any person or business establishment failing to timely pay the regulatory license fee enacted by this Ordinance shall be liable to the City of Hardinsburg in the amount of said fee, plus interest and a penalty of ten percent (10%) of the unpaid amount.

#### SECTION XXII

##### -Implementation of Ordinance

From time to time the City of Hardinsburg may, by resolution or executive order, promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this Ordinance.

#### SECTION XXIII

##### -Effective Date

Prohibition is lifted for the limited purpose hereinabove described effective May 29, 2010, and upon passage, approval and publication of this Ordinance as required by law.

Introduced, seconded and given first reading on the 10th day of May, 2010.

Read, passed, and enacted on the second reading on the 20th day of May, 2010.

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**WAYNE MACY,  
MAYOR**

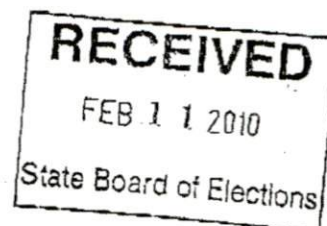
ATTEST:

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**MARY JO HESS,  
CITY CLERK**



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**ORDERS } BRECKINRIDGE COUNTY FISCAL COURT****TERM, RAY POWERS, DAY, 9<sup>th</sup> DAY OF FEBRUARY 2010****ORDER FOR LOCAL OPTION ELECTION FOR THE LIMITED SALE OF ALCOHOLIC BEVERAGES PURCHASED IN CONJUNCTION WITH A MEAL IN THE CITY OF HARDINSBURG, PURSUANT TO KRS 242.1244**

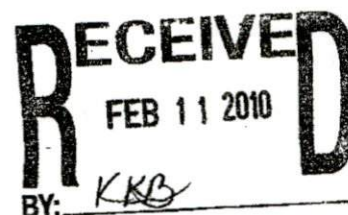
WHEREAS, a petition for a local option election for the limited sale of alcoholic beverages purchased in conjunction with a meal in the City of Hardinsburg, Breckinridge County, Kentucky, pursuant to KRS 242.1244, was filed in the Breckinridge County Court Clerk's Office on January 27, 2010, and;

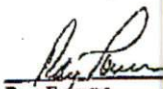
WHEREAS, the Breckinridge County Court Clerk has verified the required signatures on said petition, and the petition appears to comply all requirements set forth in KRS 242.020, and;

WHEREAS, pursuant to KRS 242.020 (5), the County Judge/Executive shall make an order on the Order Book of the Court directing an election to be held in accordance with KRS 242.030.

NOW THEREFORE, it is hereby ordered as follows:

1. The date for the local option election for the limited sale of alcoholic beverages purchased in conjunction with a meal in Hardinsburg, Breckinridge County, Kentucky, shall be on March 30, 2010.
2. The proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in Hardinsburg, at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?"



  
Ray Powers  
Breckinridge County Judge Executive