

CITY OF HURSTBOURNE ACRES, KENTUCKY

ORDINANCE 4 , **SERIES 2013**

AN ORDINANCE RELATING TO THE REGULATION OF ALCOHOLIC BEVERAGES IN THE CITY OF HURSTBOURNE ACRES

WHEREAS, KRS Chapter 242 gives the Fourth-Class city of Hurstbourne Acres the ability to regulate the sale of alcoholic beverages and the city desires to exercise that authority,

WHEREAS, the law permits the sale of alcoholic beverages, and the regulation of the same, in Hurstbourne Acres, Kentucky,

WHEREAS, it has been determined and acknowledged that an economic hardship exists within the City, and in order to promote economic development and tourism,

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF HURSTBOURNE ACRES, KENTUCKY, THAT:

Section 1:

(1) ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW

(A) The provisions of the Alcoholic Beverage Control Laws and Administrative Regulations of the Commonwealth of Kentucky (KRS Chapters 241, 243, and 244), and all amendments and supplements thereto, are adopted in full, as far as applicable, as a portion of this ordinance except as otherwise lawfully provided herein. The City of Hurstbourne Acres Alcoholic Beverage Control (ABC) Administrator shall administer all Alcoholic Beverage Control Ordinances and regulations of the city and all statutes of the Commonwealth of Kentucky relating thereto and the regulations of the Kentucky Alcoholic Beverage Control Board. The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

(B) City of Hurstbourne Acres Alcoholic Beverage Control Administrator

DUTIES.

(A) The duties of the City Alcoholic Beverage Control Administrator (hereinafter referred to as the City of Hurstbourne Acres ABC Administrator) are hereby assigned to the Chief of Police of the City of Hurstbourne Acres, or his designee.

(B) The functions of the City of Hurstbourne Acres ABC Administrator shall be the same with respect to city licenses and regulations as the function of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City of Hurstbourne Acres ABC Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than regulations of the ABC Board. No regulation of the City of Hurstbourne Acres ABC Administrator shall become effective until it has first been appropriately approved by the City Commission.

(C) No person shall be a City of Hurstbourne Acres ABC Administrator, an investigator or an employee of the City under the supervision of the City of Hurstbourne Acres ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100. *See Copy Attached hereto.*

(D) The City of Hurstbourne Acres ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244.

(E) Should the City of Hurstbourne Acres ABC Administrator at any time 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 shall have the authority to require such person to appear in person at the Hurstbourne Acres Police Department for the purpose of having his or her fingerprints taken.

(F) The City of Hurstbourne Acres ABC Administrator shall, before entering upon his or her duties as such, take the oath as prescribed in Section 228 of the Constitution.

(G) Appeals from the orders of the City of Hurstbourne Acres ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City of Hurstbourne Acres ABC Administrator. Matters at issue shall be heard by

the ABC Board as upon an original proceeding. Appeals from the orders of the City of Hurstbourne Acres ABC Administrator shall be governed by KRS Chapter 13B.

(2) PUBLISHED NOTICE OF APPLICATION

The City of Hurstbourne Acres ABC Administrator shall not approve any application for an original license to sell alcoholic beverages until the applicant has caused to be published a concise advertisement in accordance with the provisions of KRS 243.360.

(3) DELINQUENT TAXES; LICENSE WITHHELD

No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the City of Hurstbourne Acres at the time of issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes or liens due to the City of Hurstbourne Acres. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes or liens of the City of Hurstbourne Acres due on the property or premises have not been paid. In such cases, the City of Hurstbourne Acres ABC Administrator may not issue a license to sell alcohol until he has received from the applicant a written statement from the City of Hurstbourne Acres which indicates that the applicant for the license and the owner of the property or premises on which the license is sought have paid in full all unpaid and delinquent taxes or liens referred to above which were owed to the City of Hurstbourne Acres.

(4) FORFEITURES

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

(5) COMPLIANCE WITH OTHER ORDINANCES AND REGULATIONS

No license shall be issued or renewed to any person for selling at retail or wholesale any alcoholic beverages at any premises or location where such

business or associated activities are prohibited under Kentucky law, or are in violation or conflict with any regulation, including but not limited to signs, fire prevention and/or the zoning code and regulations of the City of Hurstbourne Acres and any ordinance supplementary or amendatory to it, and any license issued in violation of this section shall be void. However, any person who held a city ABC license for the sale of alcohol, and actually carried on thereunder this business (during or within the last month of the preceding license period) shall be granted a similar license by the City of Hurstbourne Acres ABC Administrator for the same business at the same premises or location, until its prior stated expiration date, at no additional cost.

(6) CONDITIONS GOVERNING LICENSES

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

1.

Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises and no nuisance suffered, permitted or maintained thereon.

1.

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

(B)

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

of Charitable Gaming.

(C)

It shall be unlawful for any licensee, or employee of any licensee, to allow the premises to become overcrowded or violate any ordinance or regulation of the Fire Prevention or Fire Marshall offices.

(7) ISSUANCE OF LICENSE; RECEIPT OF FEES

All licenses permitted under Kentucky law for a city with a population of the fourth class shall be allowed and all licenses granted under this chapter shall be approved and issued by the City of Hurstbourne Acres ABC Administrator. All license fees from licenses issued under this ordinance shall be collected by the City of Hurstbourne Acres ABC Administrator. There shall be no reimbursement of ABC fees.

All licenses approved by the City of Hurstbourne Acres ABC Administrator and issued by the city shall begin on July 1 of any year and shall expire on June 30 of the following year.

All fees that are imposed by KRS 243.030 and 243.040 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Hurstbourne Acres ABC Administrator, which are authorized under KRS 243.070, and the fees shall be paid when application for a license is made.

Distilled Spirit Licenses as set forth in KRS 243.030

Distiller's License, per annum \$500.00

Rectifier's License, per annum \$3,000.00

Wholesaler's Distilled Spirit and Wine License, per annum \$3,000.00

Quota Retail Package License, per annum \$600.00

Quota Retail Drink License, per annum \$600.00

Special Temporary License, per event \$166.66

Nonquota Type 1 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum \$2,000.00

Nonquota Type 2 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum \$1,000.00
Nonquota Type 3 Retail Drink License (includes distilled spirits, wine, and malt beverages), per annum \$300.00
Distilled Spirits and Wine Special Temporary Auction License, per event \$200.00
Special Sunday Retail Drink License, per annum \$300.00
Extended Hours Supplemental License, per annum \$2,000.00
Caterer's License, per annum \$800.00
Bottling House or Bottling House Storage License, per annum \$1,000.00

Malt Beverage Licenses as follows:

Brewer's License, per annum \$500.00
Microbrewery License, per annum \$500.00
Malt Beverage Distributor's License, per annum \$400.00
Nonquota Retail Malt Beverage Package License, per annum \$200.00
Nonquota Type 4 Retail Malt Beverage Drink License, per annum \$200.00
Malt Beverage Brew-On-Premises License, per annum \$100.00
Limited Restaurant License (includes distilled spirits, wine, and malt beverages), per annum \$1,000.00
Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum \$1,200.00

The fee for each of the first five supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five to the same licensee at the same premises.

The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars. The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars.

* Any licenses issued after January 1 of any year shall be assessed a fee equal to one-half (1/2) of the annual fee for the remainder of the license period.

In addition to the above-mentioned fees, a regulatory license fee on gross receipts shall be imposed as follows:

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. The regulatory license fee shall be five percent (5%) of gross

sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be five percent (5%) of gross sales. The regulatory license fee shall be five percent (5%) on gross retail sales of package malt beverages. These fees shall be paid quarterly. For year 2013-14 and thereafter, the City shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed until such time as the City shall adjust the fee.

(b) Payment of such regulatory fee shall be remitted to the City of Hurstbourne Acres ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the city for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax return approved for such use by the City. The return and payment are due no later than by the end of the month immediately following each calendar quarter (July 1 to September 30; October 1 to December 31; January 1 to March 31; April 1 to June 30).

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to suspension or revocation. A civil action may be filed by the City to collect the unpaid fee, penalties, and interest. If such a civil action is filed, the licensee shall be responsible for the expense of attorney fees and the costs associated with prosecuting the civil action.

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

(e) Interest at the rate of eight percent (8%) per annum shall apply to any late payments.

(8) REVOCATION OR SUSPENSION OF LICENSE

(D)

A violation of any of the provisions of this chapter, or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. It shall be the duty of the City of Hurstbourne Acres ABC Administrator to make a written report of any violation of this chapter or any amendment thereof, or of any rules or regulations of the City of Hurstbourne Acres ABC Administrator, observed by any member of the Police Department of the City of Hurstbourne Acres. Members of the Police Department of the City of Hurstbourne Acres shall report any observed violation of this chapter or any amendment thereof, or of any rules or regulations of the City of Hurstbourne Acres ABC Administrator, to the City of Hurstbourne Acres ABC Administrator without undue delay. Whenever any licensee shall violate any provision of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the City of Hurstbourne Acres ABC Administrator, or any of the provisions of the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, or any amendments or supplements thereto, or any of the rules and regulations adopted by the Kentucky State Alcoholic Beverage Control Board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, proceedings for the revocation of the license shall be instituted in the manner and under the procedure established by the Kentucky State Alcoholic Beverage Control Law.

(A)

For a violation of any section of this chapter or any amendment thereof or of any rule or regulation of the City of Hurstbourne Acres ABC Administrator, or of any rule or regulation of the State Alcoholic Beverage Control Board, or any acts of Congress or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or on conviction by a court of competent jurisdiction for any such violation, the City of

Hurstbourne Acres ABC Administrator is authorized and empowered to order the revocation or suspension of any license issued under this chapter.

(9) TRANSFER OF LICENSE OR BUSINESS

No license issued under this chapter shall be transferred or assigned by the holder, except as provided in the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, KRS 243.630 and per approval of the City of Hurstbourne Acres ABC Administrator.

(10) LIQUOR; HOURS OF SALE AND DISTRIBUTION

(A) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 a.m. and 4:00 a.m.

(B) Alcohol may be sold or dispensed on Sundays, between the hours of 1:00 p.m. until 4:00 a.m., as long as the licensee holds the current, corresponding special hours license(s).

(C) The licensee shall provide a separate locked department in which all stocks of distilled spirits, wine and malt beverages are kept during these hours when sales are prohibited. See KRS 244.290.

(D) All delivery of alcoholic beverages in the city shall be made during normal business hours, Monday through Saturday.

(E) The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day. The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open.

(F) The distribution and sales by wholesale and delivery of any alcoholic beverages may occur only between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday. No person shall distribute or sell by wholesale any such beverages at any time on Sunday.

(11) MINORS; PROHIBITIONS GOVERNING

The provisions of KRS Chapter 244 and Title 804 KAR involving prohibitions governing minors shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(12) DISPLAY OF PRINTED WARNING; ADVERTISING, AND OTHER SIGNAGE

(A) All signage shall be in compliance with any and all other existing rules and regulations of the City of Hurstbourne Acres and the Jefferson County Planning and Zoning Commission.

(B) Signage which refers directly or indirectly to alcoholic beverages will be limited to one sign not more than two square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than three inches by two inches (3" X 2") in size, setting forth the price at which he or she offers alcoholic beverages for sale.

(C) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(D) It shall be unlawful for a licensee to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

(F) The provisions of KRS 244.083 requiring the display of printed warnings shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(13) TREATING PROHIBITED; SAMPLING PERMITTED

The provisions of KRS 244.050 shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(14) PREMISES; APPROVAL OF BY HEALTH DEPARTMENT AND FIRE

PREVENTION

(A) Upon the initial application for an alcoholic beverage license, the City of Hurstbourne Acres ABC Administrator shall not grant the license under this chapter to any applicant until the applicant and the applicant's place of business have been approved by the County Board of Health and the McMahan Fire Protection District. Upon renewal of an alcoholic beverage license, the requirement of approval by the Board of Health and the McMahan Fire Protection District before issuance will be waived if the applicant's business has been approved by the Board of Health and the McMahan Fire Protection District during the prior licensing period.

(B) PATIO AND OUTDOOR SALES

(1) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(a) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this article and shall be subject to the regulation of local zoning authorities as well as code enforcement and public safety officers.

(b) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC Administrator.

(c) Unless exempted by the following provisions of this Ordinance, and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this Ordinance. Sidewalk café seating areas must comply with this Ordinance and with local zoning laws and other public safety requirements noted in this Ordinance, or in other local ordinances, statutes or regulations.

(2) Exception to screening requirement for outdoor sales and service of alcoholic beverages, specifically, permitted sidewalk cafes in the City's downtown business area:

(a) Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of the state ABC code, may, upon application to the City of Hurstbourne Acres ABC administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

(3) Conditions for sidewalk café permit:

The issuance of a permit shall be subject to the following conditions and restrictions:

(a) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(b) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. Tables, chairs, and other portable appurtenances shall be confined to the area named or shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(c) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times. Further, the City may require the licensee to enter into an agreement to use the

public sidewalk in exchange for monetary consideration.

(d) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passers by or persons who are not of age or who are obviously or apparently intoxicated.

(e) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(f) At no time shall any music originating from any part of the premises create a nuisance;

(g) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises;

(h) The permit for sidewalk café may not be assigned or transferred.

(4) Other requirements applicable to sidewalk cafes.

No sidewalk café permit shall be effective unless the licensee has filed with the ABC Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café. The insurance shall be in an amount of coverage that is a minimum of \$500,000 per person for bodily injury, and a minimum of \$1 million per occurrence for property damage. The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten (10) day's written notice filed with the ABC Administrator and the City Attorney.

(C) SEATING

Only permanent seating (excluding bar-type stools, patio seating or temporary chairs available as needed) satisfies the seating thresholds that are set by Kentucky law.

(15) BOOKS AND RECORDS

The provisions of KRS 244.150 and 804 KAR 4:100 requiring the retention of books and records shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(16) SPIRITS OUTSIDE LOCKED DEPARTMENT; DISCOVERY OF

The provisions of KRS Chapter 244 and KAR Title 804, Chapter 7, pertaining to the discovery of spirits outside a locked department shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(17) OPERATION WITHOUT A LICENSE

The provisions of KRS 243.020 pertaining to licensing shall apply to licensees and licensed premises within the jurisdiction of the City of Hurstbourne Acres.

(18) LICENSEE TO NOTIFY EMPLOYEE THAT SALES OF ALCOHOL TO MINORS PROHIBITED; ACKNOWLEDGMENT

Every licensee selling alcoholic beverages by retail sales shall notify each individual employed in retail sales that the sale of alcoholic beverages to any person under the age of 21 years is prohibited.

A notice to employees shall be provided before the employee commences work as a retail sales clerk. The employee shall signify receipt of the notice required by this section by signing a form that states as follows: I understand that under the laws of the Commonwealth of Kentucky it is illegal to sell alcoholic beverages to persons under the age of 21 years.

The licensee shall maintain the signed acknowledgment required in subsection (B) in a place and manner so as to be easily

accessible to any Police Officer of the City of Hurstbourne Acres or the City of Hurstbourne Acres ABC Administrator or his or her employees conducting an inspection of the retail outlet for purposes of monitoring compliance in limiting the sale or distribution of alcoholic beverages to persons under the age of 21 years.

(19) LICENSEE TO NOTIFY EMPLOYEE THAT PROOF OF AGE REQUIRED

(A) Every licensee selling alcoholic beverages by retail sales shall notify each employee employed in retail sales that proof of ages is required from a prospective buyer if it is reasonable to believe that the prospective buyer is under the age of 21 years.

(B) The following unaltered written instruments are the only acceptable types of identification:

- (1) An unexpired driver's license issued by any state, provided such license contains a picture of the person;
- (2) An official identification card issued by any state, provided such identification includes a picture of the person;
- (3) A United States Armed Forces identification card, provided such identification includes a picture of the person;
- (4) An unexpired passport issued by a government and which contains a picture of the person and date of birth.

(C) Every licensee selling alcoholic beverages by retail sales shall require all employees who will sell alcoholic beverages to a buyer to complete STAR (Server Training in Alcoholic Regulations). All persons who are required to complete the STAR training 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 responsible beverage service training from a program approved by the city not less than once every three years thereafter. The licensee shall be responsible for

compliance with the employee STAR training requirements and shall maintain for inspection by the City of Hurstbourne Acres ABC Administrator a record or file on each employee that shall contain the pertinent training information.

(20) CONDITIONS, PROHIBITIONS, RESTRICTIONS AND ENFORCEMENT

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

(B) The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(C) It shall be unlawful for the licensee under this chapter who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(D) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(E) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of 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.***

(F) (1) The licensee, before commencing any business for which a license has been

issued, shall post and display the 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.

(2) The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(G) (1) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches (11" x 14") in size, with letters at least one inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates the requirement of Part (G)(1), supra, shall be subject to a fine of not less than \$10 nor more than \$50. See KRS 243.895.

(H) Any off-premises signage advertising the sale of alcoholic beverages is prohibited.

(I) No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Retail sales of liquor and wine may be sold for cash, check, gift card, or nationally recognized bank credit card. A licensee, his employees, servants, or agents may not extend personal credit to the public. Retail sales of beer is not included in this restriction. See KRS 244.300.

(J) (1) No licensee shall knowingly employ in connection with his or her business any person who:

- (a) Has been convicted of any felony within the last two years;
- (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two 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 years prior to the date of his or her employment has had any city license under this chapter revoked for cause.

Violations of this division shall subject the licensee, the employer, and the

employee to penalties provided in this chapter and shall be cause for revocation of license.

(K) ENFORCEMENT

(1) City police officers and the City of Hurstbourne Acres ABC Administrator are authorized to enforce this chapter for alleged violations.

(2) Investigation and inspection of premises. The City of Hurstbourne Acres 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. They, as well as any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

(21) FAILURE TO PAY FINES

The failure of any person or entity to pay any fine imposed upon such person or entity by the City of Hurstbourne Acres ABC Administrator or hearing officer for violations of this ordinance within 30 days of its imposition shall be grounds for the issuance of an order by the City of Hurstbourne Acres ABC Administrator revoking the eligibility for employment of that person by licensees, or revoking the license issued by the City of Hurstbourne Acres ABC Administrator.

(22) SEVERABILITY

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(23) PENALTY

(A) The penalties for violations of this chapter that pertain to alcoholic beverage laws that are set forth in KRS Chapters 241 through 244 shall be the same as provided by such chapters. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(B) Any person under the age of 18 years who violates any provisions of this ordinance shall be dealt with in accordance with the procedure prescribed by statute for minors charged with the commission of a public offense.

(C) Any penalty and/or fines imposed under subsections (A) and/or (B) shall be in addition to and independent of any action which may be taken by the City of Hurstbourne Acres Alcoholic Beverage Administrator, in accordance with the provisions of the State of Kentucky Alcoholic Beverage Control laws and Administrative Rules and Regulations.

(D) In addition to any criminal penalties that may be prescribed, any person or entity that violates the provisions of this ordinance shall appear before the City of Hurstbourne Acres ABC Administrator or the City of Hurstbourne Acres Alcoholic Beverage Control Board hearing officer for a civil hearing, and shall be subject to a civil penalty of not less than \$200 and not more than \$500 for each violation if convicted, if a penalty is not otherwise established in this ordinance. Any imposed fine shall be delivered to the City Treasurer to be deposited in the appropriate designated account within ten (10) days after the date that a written decision of the City of Hurstbourne Acres ABC Administrator is issued in which the fine is assessed. An appeal of the written decision of the City of Hurstbourne Acres ABC Administrator does not stay the requirement to deliver the fine to the City Treasurer. This section shall not apply to obligations imposed upon the City of Hurstbourne Acres ABC Administrator or his or her employees under those sections. Notice of hearings shall be provided by delivering the same by U. S. Mail to the address that was provided by the licensee with the application for the license, unless a change of address is submitted to the City of Hurstbourne Acres Administrator subsequent to the submission of the application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. The City Attorney, or his designee, shall represent the city at the hearing. The licensee has the right to retain legal counsel for representation at the hearing; however, the City shall not provide counsel for the licensee if the licensee is unable to afford legal counsel. The City of Hurstbourne Acres ABC Administrator

shall issue a written decision, including findings of fact and conclusions of law, within ten (10) days after the conclusion of the hearing. Any order of suspension or revocation issued by the City of Hurstbourne Acres ABC Administrator may be appealed to the State Alcoholic Beverage Control Board within thirty (30) days of the date of the order.

Section 2: Effective date

This ordinance shall take effect upon its reading, adoption and summary publication according to law.

Adopted this _____ day of _____, 2013.

Introduction and First Reading: July 11, 2013

Second Reading and Passage: 8/8/2013

Sean Fore, Mayor

ATTEST:

To be a true Ordinance enacted by the City Commission of the City of Hurstbourne Acres, Kentucky on this _____ day of _____ 2013.

Clerk, City of Hurstbourne Acres, Kentucky

VOTE:

FOR: _____
AGAINST: _____
ABSTAINED: _____
PRESENT: _____