

ORDINANCE NO. 13-2013

AN ORDINANCE OF THE CITY OF CORBIN, KENTUCKY, AMENDING ORDINANCE NO. 5-2012 KNOWN AS THE ALCOHOLIC BEVERAGE CONTROL ORDINANCE, AND ORDINANCE NO. 13-2012 WHICH AMENDED ORDINANCE NO. 5-2012 TO DELETE, ADD, AND CHANGE CERTAIN RESTRICTIONS, REQUIREMENTS, REGULATIONS, FUNDING, PROHIBITIONS, FEES, DATES, ENFORCEMENT, TRAINING, SIGNAGE AND PENALTIES RELATING TO LICENSING AND OPERATIONS OF ESTABLISHMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES, WITHIN THE CITY OF CORBIN, KENTUCKY, AND TO COMPLY WITH THE KENTUCKY STATE LAWS RELATING TO LICENSING AND OPERATIONS OF ESTABLISHMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES, WITHIN THE CITY OF CORBIN, KENTUCKY.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CORBIN, KENTUCKY, AS FOLLOWS:

SECTION ONE: Ordinance No. 5-2012 at **SECTION 4.** ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW. at Pages 2 and 3, is hereby amended and shall read as follows:

The provisions of the Alcoholic Beverage Control Law of the Commonwealth (KRS Chapters 241, 242, 243 and 244), and all amendments and supplements and administrative regulations thereto, are adopted so far as applicable to this Ordinance, except as otherwise lawfully provided herein, and shall mirror State licensing, processes, enforcement, and regulations.

SECTION TWO: Ordinance No. 5-2012 at **SECTION 7.** USE OF REVENUE at Page 4, is hereby amended and shall read as follows:

~~All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.~~

All moneys derived from the collection of licensing and regulatory fees provided for herein shall be paid into the ABC Administration and Police Fund of the city.

SECTION THREE: Ordinance No. 5-2012 at **SECTION 9.** CLUBS, LODGES, AND FRATERNAL ORDERS. (D) License fee; proration refunds. (2) at Page 6, is hereby amended and shall read as follows:

(2) When the license is issued after ~~August 1~~ October 1 of any year, the licensee shall be required only to pay a proportionate part of the license ~~tax~~ fee required therefor

from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

SECTION FOUR: Ordinance No. 5-2012 at SECTION 10. LICENSING AND HEARINGS. (A) *License required.* at Page 7, is hereby amended to add subsection (3) and shall read as follows:

(3) No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City Administrator and not until a payment of One Hundred Dollars (\$100.00) shall be made to the City, attention of the City Administrator.

SECTION FIVE: Ordinance No. 5-2012 at SECTION 10. LICENSING AND HEARINGS. (A) *License required.* (2) at Page 7, is hereby amended and shall read as follows:

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, fees, assessments, or other financial claims of the city are delinquent or unpaid.

SECTION SIX: Ordinance No. 5-2012 at SECTION 10. LICENSING AND HEARINGS. (H) *Licenses; expiration date.* (I) *Prorate license fees.* (1) at Pages 8 and 9 is hereby amended and shall read as follows:

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on ~~June 30~~ April 30 of each year.

(I) *Prorate license fees.*

(1) When any person applied for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after ~~October 4~~ June 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following ~~June 30~~ April 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

SECTION SEVEN: Ordinance No. 5-2012 at SECTION 10. LICENSING AND HEARINGS. (J) *License fees.* (1) Malt beverages: (2) Distilled spirits and wine at Pages 9 and 10 is hereby amended and shall read as follows:

(J) *License fees.* For the privilege of causing, permitting and engaging in the actions, business and transactions authorized thereby in regard to traffic in alcoholic beverages in the city, and pursuant to the authority of the Kentucky Revised Statutes, there is hereby established a corresponding city license for each of the state licenses. The fee for each city license shall be as set out in the following schedule:

(1) Malt beverages:

Type of License	Fee
Distributor's license, per annum	-\$400.00-
Retailer's license, per annum	-\$200.00-
Special temporary license, per event	-\$50.00-
Microbrewery license, per annum	-\$500.00-

(2) Distilled spirits and wine:

Type of License	Fee
Wholesaler's license, per annum	-\$3,000.00-
Retail package license, per annum	-\$800.00-
Restaurant drink license (wine and distilled spirits), per annum***	-\$800.00-
Special temporary license, per month	-\$100.00-
Special private club license, per annum	-\$300.00-
Special Sunday retail wine and/or distilled spirits drink license, per KRS 244.290(3)(b), per annum	-\$300.00-
Nonresident, special agent or solicitor's license, per annum	-\$40.00-
Restaurant wine license per KRS 243.032, per annum	-\$600.00 for new applicants
	-\$400.00 for renewal
Temporary wine license, per event	-\$50.00-
Caterer's license, per annum	-\$800.00-
Distiller's license, per annum	-\$500.00-

***Must be bona fide restaurant open to the general public having dining facilities for not less than one hundred (100) persons; or a hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons.

The City may, as the occasion arises, issue any licenses and collect fees permitted by law for the privilege, manufacturing and trafficking in alcoholic beverages, as designated in KRS 243.070, as amended, as allowed under governing state law.

Statutory reference:

City license fees, see KRS 243.070

(J) *License fees.* For the privilege of causing, permitting and engaging in the actions, business and transactions authorized thereby in regard to traffic in alcoholic beverages in the city, and pursuant to the authority of the Kentucky Revised Statutes, there is hereby established a corresponding city license for each of the state licenses. The fee for each city license shall be as set out in the following schedule:

(1) Malt beverages:

Type of License	Fee
<u>Distributor's License</u>	<u>\$400.00</u>
<u>NQ-Retail Malt Beverage License</u>	<u>\$200.00</u>
<u>Special Temporary License</u>	<u>\$100.00</u>
<u>Microbrewery License</u>	<u>\$500.00</u>

(2) Distilled spirits and wine:

Type of License	Fee
<u>Wholesaler's license</u>	<u>\$3,000.00</u>
<u>Quota Retail Package License</u>	<u>\$800.00</u>
<u>Quota Retail Drink License</u>	<u>\$500.00</u>
<u>NQ-4 Retail Malt Beverage Drink License***</u>	<u>\$800.00</u>
<u>NQ-3 Retail Drink License</u>	<u>\$300.00</u>
<u>Special Sunday Retail Drink License</u>	<u>\$300.00</u>
<u>Special Agent or Solicitors License</u>	<u>\$40.00</u>
<u>Limited Restaurant License</u>	<u>\$800.00</u>
<u>NQ-2 Retail Drink License</u>	<u>\$600.00</u>
<u>Caterer's License</u>	<u>\$800.00</u>
<u>Distiller's License</u>	<u>\$500.00</u>
<u>NQ-1 Retail Drink License</u>	<u>\$800.00</u>
<u>Extended Hours Supplemental License</u>	<u>\$300.00</u>

All license types have a one year licensing renewal option available.

*****Must be bona fide restaurant open to the general public having dining facilities for not less than one hundred (100) persons; or a hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons.**

The City may, as the occasion arises, issue any licenses and collect fees permitted by law for the privilege, manufacturing and trafficking in alcoholic beverages, as designated in KRS 243.070, as amended, as allowed under governing state law.

Statutory reference:

City license fees, see KRS 243.070

SECTION EIGHT: Ordinance No. 5-2012 at **SECTION 10.** LICENSING AND HEARINGS. (K) *Regulatory License Fee.* at Page 10 and Ordinance No. 13-2012 at **SECTION ONE:** at Page 1 is hereby amended and shall read as follows:

(K) *Regulatory License Fee.* There is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City Administrator. As of the time of adoption of this Ordinance, the regulatory license fee shall be seven percent (7%) 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 four percent (4%) on gross retail sales of package malt beverages. These percentage rates are reasonably estimated to reimburse the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31. Payment of such regulatory fees shall be paid to the City, to the attention of the City Administrator, and payment shall be due on the 20th day of each month and one-fourth (1/4) of the annual license fees paid otherwise hereunder by the licensee shall be deducted as a credit each quarter. Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to suspension or revocation of its license. The civil penalty for failure to pay monthly admittances when due is five percent (5%) of the unpaid-tax fee for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the-tax fee, provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00). Interest at the rate of Eight Percent (8%) per annum will apply to any late payments.

SECTION NINE: Ordinance No. 5-2012 at SECTION 10. LICENSING AND HEARINGS. (Q) *Conditions of accepting license.* at Pages 12 and 13 is hereby amended and shall read as follows:

(Q) *Conditions of accepting license.* All licenses issued pursuant to this Ordinance shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search, and for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state.

(2) The licensee holding a license pursuant to this Ordinance shall not sell any spirituous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in, or allowing customers to engage in, fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(e) Conducting promotional efforts that are not customary or usual for a restaurant operation. (e.g. wet t-shirt contest, wrestling contest, etc.

(4) Treating or giving away alcoholic beverages at no cost to the customer, in violation of Kentucky Revised Statutes, as amended, shall be unlawful and is forbidden.

(5) No spirituous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed on the premises any spirituous or vinous liquors or mixtures thereof during hours when the sale of alcoholic beverages is prohibited. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishments, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(6) No gambling or game 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 is prohibited and shall not be kept on such premises.

(7) 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 messages broadcast from any law enforcement agency. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(8) The licensee shall be responsible for maintaining security on his 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 premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(9) It shall be unlawful for the licensee under this Ordinance 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.

(10) 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.

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

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

(13) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 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.

(14) The licensee, before commencing any business for which a license has been issued, shall post and display 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.

(15) 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.

(16) 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 supplied by the Cabinet for Health 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). KRS 243.895

SECTION TEN: Ordinance No. 5-2012 at **SECTION 11. WHOLESALE DISTRIBUTION AND SALES.** (D) *License fee; separate places; expiration date.* at Page 14 is hereby amended and shall read as follows:

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the City Administrator a license therefor, for which he or she shall pay the license fees as provided in this Ordinance.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse, agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this Ordinance.

(3) All licenses provided for herein shall commence as of ~~July 1~~ March 1 and expire on ~~June 30~~ April 30 next after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license ~~tax fee~~ required therefor from the first day of the month in which the licensee commences to carry on said business until ~~June 30~~ April 30 next. However, no license shall be issued for less than 50% of the annual license fee.

SECTION ELEVEN: Ordinance No. 5-2012 at SECTION 12, RESTAURANT DRINK LICENSE. at Page 15 is hereby amended to add subsection (C) and shall read as follows:

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a restaurant serving alcoholic beverages shall be deemed in violation hereof. If any person, firm, corporation, partnership, or joint venture which attempts to prohibit the drinking of alcoholic beverages on a parking lot adjacent, adjoining, or connected with a restaurant serving alcoholic beverages, shall be exempt from the provisions hereof.

SECTION TWELVE: Ordinance No. 5-2012 at SECTION 14, {RESERVED} at Page 16 is hereby amended and shall read as follows:

SECTION 14. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

(A) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program.

(B) For a responsible beverage servicing training program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication.

(C) A City approved beverage servicing training program shall consist of in class training of the STAR program. Online classes will not be accepted by the City.

(D) If a City approved beverage service training is not obtained the server will be prohibited from serving.

(E) All persons required to complete training under paragraph (A) 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 years thereafter.

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

SECTION THIRTEEN: Ordinance No. 5-2012 at SECTION 15, {RESERVED} at Page 16 is hereby amended and shall read as follows:

SECTION 15. SIGNS AND ADVERTISING

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

(B) No outside banners, posters or temporary signs 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.

(C) This will not prevent interior illuminated non-flashing signs.

SECTION FOURTEEN: Ordinance No. 5-2012 at SECTION 16. SPECIAL SUNDAY RETAIL DRINK LICENSES. (A) *Establishment.* (B) *Restrictions.* (C) *Fee.* at Page 16 is hereby amended and shall read as follows:

SECTION 16. SPECIAL SUNDAY RETAIL DRINK LICENSES.

~~(A) *Establishment.* There are hereby established a city special Sunday restaurant wine license, pursuant to the authority granted by KRS 243.032 and KRS 243.070, and a city special Sunday restaurant drink license, pursuant to the authority granted by KRS 242.185 and KRS 243.070.~~

(A) *Establishment.* There are hereby established a city special Sunday restaurant drink license, pursuant to the authority granted by KRS 243.070.

~~(B) *Restrictions.* The holder of the special Sunday restaurant wine license shall be governed by the restrictions contained in KRS 243.032 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail drink licenses shall be governed by Section 6. that outlines the hours of operation allowed for licensed premises.~~

(B) *Restrictions.* The holder of the special Sunday restaurant drink license shall be governed by the restrictions contained in KRS 243.070 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail drink licenses shall be governed by Section 6. that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this Ordinance and shall become due and payable on ~~June 4~~ April 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license ~~tax fee~~ required therefor from the first day of the month in which the licensee commences to carry on the business until ~~June 30~~ April 30 next. However, no license shall be issued for less than 50% of the annual license fee.

SECTION FIFTEEN: Ordinance No. 5-2012 at SECTION 18. ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY. at Page 16 is hereby amended and shall read as follows:

SECTION 18. ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.

~~-All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 14 inches by 14 inches in size, with letters at least one inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.~~

See SECTION 10. LICENSING AND HEARING. (Q) (16).

SECTION SIXTEEN. Ordinance No. 5-2012 at **SECTION 19. PENALTY.** at Page 16 is hereby amended and shall read as follows:

SECTION 19. PENALTY.

~~Any person found guilty of violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail for not more than 6 months, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Control Board.~~

SECTION 19. PENALTY AND ENFORCEMENT.

(A) Any person, firm or corporation who violates any of the provisions of this Ordinance for which no other 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 in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection above shall be in addition to the revocation or suspension of the offender's license along with any administrative penalty imposed by the City Administrator of not more than Five Hundred Dollars (\$500.00) or any administrative penalty imposed by the State Alcoholic Beverage Control Board. Any penalty imposed by the City Administrator shall be transmitted to the City Collector to be deposited in a designated account. Further, if the offender is a corporation, partnership, joint stock company, limited liability company, association, fiduciary or other business entity, the principal officer or officers shall be held responsible for any violation hereunder and subject to the penalties set forth herein.

(B) City police officers and the City Administrator are authorized to enforce this Ordinance for violations. The City Administrator and any investigator acting under the authority of the City Administrator, shall have the full police powers of peace officers within the boundaries of the City of Corbin, and they, along with 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.

SECTION TWENTY: ORDINANCE NO. 5-2012 AND ORDINANCE NO. 13-2012.

Except as specifically amended herein, the provisions of Ordinance No. 5-2012 the Alcoholic Beverage Control Ordinance and Ordinance No. 13-2012 amending Ordinance No. 5-2012 shall remain in full force and effect.

SECTION TWENTY-ONE: REPEAL OF ORDINANCES AND/OR PORTIONS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

On the effective date of this Ordinance, all Ordinances and/or portions of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION TWENTY-TWO: SEVERABILITY.

If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this Ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

SECTION TWENTY-THREE: EFFECTIVE DATE.

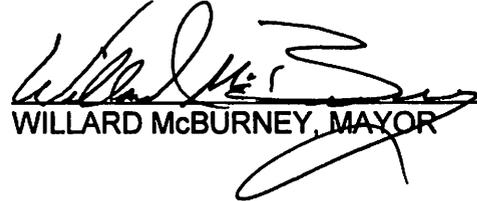
This Ordinance shall take effect upon proper passage and legal advertisement.

FIRST READING 11-18-13

SECOND READING 11-19-13

APPROVED

BY:


WILLARD McBURNEY, MAYOR

ATTEST


ERIN TYE, CITY CLERK