

Ordinance 2022-002

ALCOHOLIC BEVERAGES

ARTICLE I: ALCOHOLIC BEVERAGE CONTROL

1-1. Short title.

This article shall be known and may be cited as the "Ashford Alcoholic Beverage Ordinance."

1-2. Purpose.

This article is enacted for the purposes, among others, of promoting the health and general welfare of the community, of establishing reasonable standards for the regulation and control of the licensing and sales of alcoholic beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable persons from engaging in or having any interest in alcoholic beverages. This article shall be construed as an exercise by the city of the police power of the state delegate to the city, in the regulation of traffic in alcoholic beverages within the city as provided by state law.

Additionally, with respect to those provisions in this article dealing with adult-oriented businesses, the city council makes the following findings:

- (1) It is the purpose of such provisions to regulate such businesses so as to promote the health, safety, morals, and general welfare of the city's citizens. Such provisions have neither the purpose nor effect of imposing a limitation/restriction on the content of any communicative materials, including adult-oriented materials; and
- (2) The council finds that:
 - a. Adult-oriented businesses lend themselves to ancillary unlawful and unhealthy activities;
 - b. Adult-oriented businesses, because of their very nature, have a deleterious effect on both existing businesses and the surrounding residential areas, causing adverse secondary effects, including increased crime and downgrading of property values;
 - c. Adult-oriented businesses, due to their nature, have serious objectionable operational characteristics, thereby contributing to crime, lower property values, urban blight and downgrading of the quality of life in the adjacent area;
 - d. The use of alcoholic beverages, in connection with the operation of an adult-oriented business, is an explosive combination that enhances and amplifies the negative secondary effects of adult-oriented businesses;
 - e. These findings raise substantial governmental concerns; and
 - f. Adult-oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

1-3. Definitions.

Unless they are otherwise defined below, whenever used in this article, the definitions set forth in the Code of Ala. 1975 § 28-3-1 are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:

Adult-oriented businesses are those businesses defined as follows:

Adult bookstore, adult novelty store, or adult video store means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals or other printed matter; photographs; compact discs; floppy diskettes; films; motion pictures; video cassettes, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and
- b. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a. Persons who appear nude or in a state of nudity or seminudity;
- b. Live performances which are characterized by the performance of specified sexual activities or exposure of specified anatomical areas; or
- c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means:

- a. A commercial establishment where films, motion pictures, video cassettes, slides or other similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown or offered to be shown to patrons; or
- b. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or seminude, or live performances which are characterized by exposure of specified anatomical areas or specified sexual activities.

Association means a partnership, limited partnership, limited liability company (LLC), or any form of unincorporated enterprise.

Bartender/server means an employee of a retail alcoholic beverage licensee who is directly involved with the opening, mixing, dispensing, serving, or final sale of alcoholic beverages to a customer of the licensed establishment.

Bed and breakfast establishment means an establishment that satisfies the requirements for a bed and breakfast under the city's zoning ordinance.

Boutique hotel means a building or part thereof, occupied as the more or less temporary abiding place of individuals in which at least two rooms, but no more than 15 such rooms, each with a bathroom, are regularly, usually and separately occupied singularly for hire, in which rooms no provision for cooking is made, for the accommodation of the occupants and guests. A boutique hotel shall maintain a central, internal lobby, and all

rooms shall be accessible only from the interior of the building. A boutique hotel shall be held out to the public for housing accommodations of travelers or transients, but shall not include a bed and breakfast establishment, rooming house, or a boarding house.

Brewpub means an establishment that has been issued a brewpub license from the alcoholic beverage control board pursuant to Code of Ala., § 28-4A-1 et seq., manufactures/brews beer, sells it for on-premises consumption (and for off-premises consumption to the extent permitted by state law), and that also meets the following requirements:

- (1) A diversified selection of food is offered for sale for consumption on the premises in which the establishment is located;
- (2) At least one meal per day shall be served for each day open;
- (3) During any 90-day period, the gross receipts from the retail sale of meals and food shall constitute at least 40 percent of the total combined gross receipts of the business' retail sale of meals/food and for the retail sale of alcoholic beverages for on-site consumption. The licensee of such establishment shall maintain separate cash register receipts, one for meals/food and one for the sale of alcoholic beverages for on-site consumption. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the city during regular business hours as the city clerk-treasurer, or duly authorized representative, may request; and
- (4) Any sales or consumption of alcoholic beverages on the premises that are not within an enclosed structure may be in an area that is: (i) adjacent to the structure wherein the sale is provided; and (ii) divided from the area's exterior by a fence, barricade, or other obstacle.

To the extent required by state law, the city designates areas in which brewpubs are permitted to be located by this article and the zoning ordinance of the city to be suitable areas for such location pursuant to Code of Ala. 1975, § 28-4A-2.

Business license means a business license issued by the city pursuant to chapter 18 of this Code.

Child development facility means any child development program or club that promotes extended educational services that is funded partially or completely by federal, state, or local government revenue (i.e., Head Start programs, Boys & Girls Club, etc.). The definition of "child development facility" shall also include any day care center licensed by the Alabama Department of Human Resources. A "child development facility" shall not include any facility or property used by a child development facility that is not located on, at, or adjacent to the main location of the child development facility.

Church building means a building set apart by a church primarily for use for purposes of public worship, whose sanctuary is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire building is kept for that use and not put to any other use inconsistent therewith.

City alcohol license fee, license fee or license tax means a fee charged by the city to a person that has been granted approval by the state alcoholic beverage control board for the privilege of selling alcoholic beverage within the city limits as herein enumerated and defined.

Committee and city alcohol license review committee mean the city clerk-treasurer, or designated representative; the chief of police, or designated representative; the fire chief, or designated representative; the city planner, or designated representative; and three other members to be appointed by the city council.

Container means the single bottle, can, keg, bag or other receptacle, in which alcoholic beverages are packaged and sealed for the market by the retailer, manufacturer or importer, and from which the alcoholic beverage is consumed by or dispensed to the public.

Convenience store means an establishment that sells convenience items, snacks, grocery items, gasoline, and other motor fuels. No more than 25 percent of the floor space, excluding coolers and dry storage area, is dedicated to the public display of alcoholic beverages.

Engaged in business means a person shall be deemed engaged in business within the corporate limits if that person has a fixed place of business within the corporate limits, or is, pursuant to agreement of sale, expressed or implied, that person delivers any alcoholic beverage, beer or wine within the corporate limits, or if that person performs, within the corporate limits, any act authorized to be done only by the holder of any license issued by the state alcoholic beverage control board.

Fixed place of business means any place where any alcoholic beverage, wine or beer is kept or stored for sale or delivery.

Grocery store means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales and whose floor space is at least 10,000 square feet.

Hotel means an establishment engaged in the business of renting or furnishing any room or rooms or lodgings to transients in any hotel, motel, or inn, in which 20 or more rooms or lodging are regularly furnished to transients for a consideration.

License means a license for the sale of alcoholic beverages issued by the state alcoholic beverage control board

Licensee means any person holding a license.

Manager means an employee of a retail alcoholic beverage licensee who is given the responsibility and authority by the licensee to direct the operation of the licensed establishment, either solely or in conjunction with other similarly designated employees, by directing the activities of other employees of the licensed establishment. Such direction could include, but not be limited to, such responsibilities as assignment of employee tasks, scheduling of employee hours, evaluation of employee performance, and employee hiring or discipline.

Meal means a diversified selection of food some of which is not capable of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about.

Merchandise store with incidental table wine sales means an establishment principally operated for the sale of apparel, home decor, art, jewelry, antiques, or specialty gift merchandise, and that also offers the sale of a diversified selection of both domestic and imported table wine, but not beer or liquor, in unopened containers for off-site consumption. Such establishments may apply for a license for retail table wine for off-premises consumption. The sale of alcoholic beverages shall be no more than ten percent of its gross annual sales, and no more than 15 percent of the public floor space may be dedicated to the public display of alcoholic beverages.

In addition, the owner of a merchandise store with incidental table wine sales may apply with the city for an on-premises wine license for the purpose of offering up to two wine tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge. In such case, the establishment may also apply for a retail table wine license for on-premises consumption.

Open container means a container containing alcoholic beverages which has been opened or unsealed subsequent to filling and sealing by the retailer, manufacturer or importer.

Person means a natural person, association of natural person, partnership, corporation or other legal entity. Whenever used in a provision prescribing a fine or imprisonment, the term "person" shall mean the partners, members, directors or officers of any partnership, association, corporation or other legal entity.

Person in charge (PIC) means a person, whether owner, partner, officer, or employee of the licensee, who is designated by the licensee as a responsible party for the licensee in ensuring compliance with the law and

regulations of the Code of Alabama, state alcoholic beverage control board, and the ordinances of the city as apply to the operation of a business having retail sales of alcoholic beverages.

Public place means any:

- (1) School building or school property;
- (2) Public park;
- (3) Outdoor recreational area regularly held open to the general public; and
- (4) Athletic facility/field regularly held open to the general public.

Public place shall also mean, unless such premises is being used for a private gathering or such premises is otherwise licensed for the sale of alcoholic beverages, any theater, auditorium, skating rink, dance hall, or other place of amusement.

Residential dwelling means (a) a single-family dwelling, including attached structures such as porches and stoops; or (b) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Restaurant means a reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a diversified selection of food, refreshments and alcoholic beverages are offered for sale for consumption on the premises in which the establishment is located, and which meets the following requirements:

- (1) Said dining room shall be equipped with tables and chairs accommodating a number of persons meeting with all the adopted building code occupancy requirements. A restaurant shall be deemed a "Class II Restaurant" where it has a dining space of less than 1,000 square feet. Otherwise, the restaurant shall be deemed a "Class I Restaurant";
- (2) A kitchen separate and apart from said dining area, but adjoining the same, in which food is prepared for consumption by the public and in which the food or meals served in said dining area are prepared;
- (3) At least one meal per day shall be served for each day open (except in the case of an establishment presenting a minimum of nine-hole golf course, public or private);
- (4) The serving of food or meals shall constitute the principal business of such establishments, with the serving of liquor, malted or brewed beverages, wines or other alcoholic beverages being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute at least 40 percent of the total gross receipts of the business (except in the case of an establishment presenting a minimum of nine-hole golf course, public or private, who may also sell food and alcoholic beverages on the golf course, in which case the percentage shall be 20 percent). The licensee of such establishment shall maintain separate cash register receipts, one for food and one for alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the city during regular business hours as the city clerk-treasurer or duly authorized representative, may request; and
- (5) Any sales or consumption of alcoholic beverages on the premises that are not within an enclosed structure may be in an area that is:
 - a. Adjacent to the structure wherein the sale is provided; and
 - b. Divided from the area's exterior by a fence, barricade, or other obstacle.

School means a state accredited public or private elementary, intermediate, middle, junior high or senior high school. A "school" shall not include any facility or property used by a school that is not located on, at, or adjacent to the main campus of the school.

Seminude means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Specified anatomical areas, as used in this chapter, means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities, as used in this chapter, means and includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence; or
- (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (4).

Taproom means an establishment that has been issued a manufacturer license from the alcoholic beverage control board, that sells alcoholic beverages at retail for consumption on the premises where they are manufactured (and for off-premises consumption in limited amounts) pursuant to Code of Ala. 1975, § 28-3A-6(h), and which meets the following requirements:

- (1) A diversified selection of food is offered for sale for consumption on the premises in which the establishment is located;
- (2) At least one meal per day shall be served for each day open;
- (3) During any 90-day period, the gross receipts from the retail sale of meals and food shall constitute at least 40 percent of the total combined gross receipts of the business' retail sale of meals/food and for the retail sale of alcoholic beverages for on-site consumption. The licensee of such establishment shall maintain separate cash register receipts, one for meals/food and one for the sale of alcoholic beverages for on-site consumption. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the city during regular business hours as the city clerk-treasurer, or duly authorized representative, may request; and
- (4) Any sales or consumption of alcoholic beverages on the premises that are not within an enclosed structure may be in an area that is: (i) adjacent to the structure wherein the sale is provided; and (ii) divided from the area's exterior by a fence, barricade, or other obstacle.

Unopened container means a container containing alcoholic beverages which has not been opened or unsealed subsequent to filling and sealing by the retailer, manufacturer or importer.

1-4. Restriction of locations and manner of sale.

(a) *Types of businesses allowed to sell alcoholic beverages at retail for on-premises consumption.* In addition to all other regulations and restrictions, no establishment in the city may be authorized for the retail sale of alcoholic beverages for consumption on the premises, except for the following:

- (1) Restaurants;
- (2) Hotels;
- (3) Bed and breakfast establishments, serving alcoholic beverages to overnight guests;
- (4) Merchandise store with incidental table wine sales, in connection with its wine tastings;
- (5) Brewpubs;
- (6) Taprooms;
- (7) Persons holding a special events retail license for on-premises consumption or a nonprofit special events retail license for on-premises consumption; and
- (8) Clubs holding a club liquor retail license from the state alcoholic beverage control board.

(b) *Types of businesses allowed to sell beer/wine for off-premises consumption.* In addition to all other regulations and restrictions, no licensee in the city with a license issued by the state alcoholic beverage control board for:

- (1) Retail table wine license for off-premises consumption;
- (2) Retail table wine license for on-premises and off-premises consumption;
- (3) Retail beer for on-premises and off-premises consumption;
- (4) Retail beer for off-premises consumption;
- (5) A manufacturer license; and/or
- (6) A brewpub license.

shall be permitted to sell beer and wine for off-premises consumption unless the same is a convenience store, grocery store, a merchandise store with incidental table wine sales, a brewpub, a taproom, a restaurant in the case of sales pursuant to Code of Ala. § 28-3A-20.1, a hotel, or a boutique hotel.

(c) *Limits of types of businesses allowed to sell alcoholic beverages in a traditional zone.* In addition to all other regulations and restrictions, no facility or property located in a traditional zone shall be authorized for the retail sale of alcoholic beverages, whether for on-premises or off-premises consumption, except for the following:

- (1) Restaurants that sell alcoholic beverages for only on-premises consumption (except for sales for off-premises consumption pursuant to Code of Ala. 1975, § 28-3A-20.1);
 - (2) Convenience stores that sell beer and/or table wine for only off-premises consumption;
 - (3) Grocery stores that sell beer and/or table wine for only off-premises consumption;
 - (4) Merchandise store with incidental table wine sales;
 - (5) Brewpubs;
 - (6) Taprooms;
 - (7) Bed and breakfast establishments, serving alcoholic beverages for only on-premises consumption by overnight guests;
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- (8) Persons holding a special events retail license for on-premises consumption, or a nonprofit special events retail license for on-premises consumption; and
- (9) Boutique hotels, serving beer and/or table wine for on and/or off-premises consumption.
- (d) *Restrictions on clubs.* No club may sell alcoholic beverages except for consumption on the club's licensed premises. In addition to all other regulations and restrictions, no club in a residential zone or in a planned development district shall be authorized for the sale of alcoholic beverages for on-premises consumption unless the same has been approved as a special exception by the zoning board of adjustment, as may be required by the city zoning ordinance.
- (e) *Distance limitations for alcohol sales.* In addition to all other regulations and restrictions, and subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the facility or property is less than 300 feet from any church building, school, or child development facility and residential dwelling.
- (1) The aforesaid distance restriction in this section shall not apply in the following enumerated cases:
- a. Where the facility or property is located in a traditional downtown business district/C-2 zone, and the facade on the lot frontage of the facility or property (or the closest point of any area of the facility or property licensed for the sale of alcoholic beverages that is not within a fully-enclosed structure, if closer) is not less than 50 feet from the church building, school, or child development facility and residential dwelling.
 - b. Where:
 1. The facility or property is separated from the church building, school, or child development facility and residential dwelling by a street or highway having four or more traffic lanes, not including any lanes that are turning lanes, service lanes, and/or hazard lanes,
 2. At least four of the traffic lanes that separate the licensed premises from the church building, school, or child development facility and residential dwelling extend continuously and together for more than one mile before any one of the lanes terminates or becomes a turning lane, service lane, and/or hazard lane, and
 3. The minimum distance between the licensed premises and the church building, school, or child development facility building and residential dwelling is at least 200 feet;
 - c. Where the church building, school, or child development facility and residential dwelling was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months;
 - d. Where the establishment upon the facility or property is a grocery store; or
 - e. Where the facility or property is located in the same shopping center as the church building, school, or child development facility and residential dwelling.
- (2) When measuring from a church building, school, or child development facility and residential dwelling, the closest exterior wall of the church building or the closest building in the school or child development facility complex and residential dwelling wherein an essential function or activity of the school or child development facility is carried on shall constitute the beginning point for measurement. When measuring from the facility or property, the closest point on the exterior wall of the building occupied by the person seeking to sell alcoholic beverages (or, if closer, the closest point of the area licensed for the sale of alcoholic beverages) shall be used for measurement purposes if the building is occupied solely by that person; otherwise, such measurement shall be made from the closest point of the person's occupancy within the building in question (or, if closer, the closest point of the area licensed for the sale of alcoholic beverages). The method of measurement is a straight line from the aforementioned defined points.
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- (3) In instances where the council has delegated the authority to make such a determination to an agent, any person aggrieved by the decision of the agent may appeal the agent's decision to the council. Such an appeal must be filed in writing within ten days of the date of the agent's decision and must specify the details of the reason for the appeal. The council shall hold a public hearing on such appeal at its next regularly scheduled meeting which is at least 14 days after the appeal is received by the clerk. The aggrieved party shall have the right to address the council and present any relevant evidence and testimony at said hearing. The decision of the council shall be final.
- (f) *Additional restrictions on the sale of retail liquor for off-premises consumption.*
- (1) In addition to all other regulations and restrictions, except in the case of taprooms, no facility or property shall be authorized for the sale of retail liquor for off-premises consumption unless it is situated in a B-2 zone.
- (2) In addition to all other regulations and restrictions, except in the case of taprooms, no facility or property shall be authorized for the sale of retail liquor for off-premises consumption where the facility or property unless it is more than 1,000 feet from another facility or property that (i) has previously been authorized for the sale of retail liquor for off-premises consumption and (ii) is currently licensed for the sale of retail liquor for off-premises consumption. When measuring from these facilities or properties, the closest point on the exterior wall of the buildings occupied by the persons selling or seeking to sell alcoholic beverages shall be used for measurement purposes. If a building is not solely occupied by that person, then the measurement shall be made from the closest point of that person's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points. A state liquor store (i.e., a store operated by the state alcoholic beverage control board which offers the retail sale of liquors for off-premises consumption) shall not be construed as "another facility or property" pursuant to this subsection.
- (3) In addition to all other regulations and restrictions, and subject to exceptions contained in this subsection, no facility or property shall be authorized for the sale of retail liquor for off-premises consumption unless the building in which the premises is located is more than 1,000 feet from any church building, public or private elementary, intermediate, middle or junior high, high school, or child development facility. The method of measurement shall be the same method as found in section 1-4(e)(2). The aforesaid distance restriction in this subsection shall not apply where (i) the premises is separated from the church building, school, or child development facility and residential dwelling by a street or highway having four or more traffic lanes, not including any lanes that are turning lanes, service lanes, and/or hazard lanes, (ii) at least four of the traffic lanes that separate the premises from the church building, school, or child development facility and residential dwelling extend continuously and together for more than one mile before any one of the lanes terminates or becomes a turning lane, service lane, and/or hazard lane, and (iii) the minimum distance between the premises and the church building, school, or child development facility building and residential dwelling is at least 500 feet. The aforesaid distance restriction in this subsection shall also not apply where the facility or property is a grocery store as defined herein, or where the church building, school, or child development facility and residential dwelling was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.
- (4) In instances where the council has delegated the authority to make the determinations in (2) and (3) above to an agent, any person aggrieved by the decision of the agent may appeal the agent's decision to the council. Such an appeal must be filed in writing within ten days of the date of the agent's decision and must specify the details of the reason for the appeal. The council shall hold a public hearing on such appeal at its next regularly scheduled meeting which is at least 14 days after the appeal is received by the clerk. The aggrieved party shall have the right to address the council and present any relevant evidence and testimony at said hearing. The decision of the council shall be final.
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1-5. Maintenance of order; report of violation.

It shall be the duty of each licensee and of each manager or supervisor at any time charged with the management and supervision of any licensed establishment, while the same are open to the public, to maintain order upon the premises and to exclude from the premises any person who is drunk and disorderly or who commits any breach of the peace, or who uses or engages in offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each officer, licensee, manager, or person-in-charge of any licensed establishment, immediately to make an appropriate report to the police department of the city of each assault, assault and battery or affray, occurring on the licensed premises while said premises are open for business. It shall further be the duty of said person to make a written report of each of said incidents to the police department of the city and to the local field office of the alcoholic beverage control board within 36 hours thereof.

1-6. Offenses in public.

- (a) Except in the case of alcoholic beverages that are sold, served or consumed as permitted pursuant to section 1-17, it shall be unlawful for any person to drink, sell, serve, dispense or give away, or attempt to drink, sell, serve or give away, any liquor, wine or malt or brewed beverages, while upon any street, alley, sidewalk, public easement, rights-of-way, parking lots designed for use by the general public, or while in any public place in the city.
- (b) It shall be unlawful for patrons, customers, invitees or guests to bring alcoholic beverages onto premises licensed to do business by the city, whether or not the business is licensed to sell or furnish alcohol, except in the case of private gatherings.

1-7. Sales to visibly intoxicated persons.

It shall be unlawful for any person or for any employee, servant or agent of any person to sell, or offer for sale, any liquor, wine or beer to any person visibly intoxicated.

1-8. Misrepresentation of age of minor.

It shall be unlawful for any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not 21 years of age, by means of which false representation such person aids or abets or attempts to aid or abet, such minor person to buy, receive or otherwise obtain any malt or brewed beverage, any wine or liquor or any alcoholic or intoxicating beverages.

1-9. Authorized hours.

The sale of alcoholic beverages in the city by properly licensed retail licensees is permitted on all days during the week (including Sunday), except as follows: it shall be unlawful for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve, dispense or offer for reward, or to offer to serve or dispense for reward any liquor, wine, or beer, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 10:00 p.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday Friday or Saturday of any week, or between the hours of 10:00 p.m. Saturday and 6:00 a.m. on Sunday of any week.

1-10. Adult-oriented businesses.

It shall be unlawful for any person, whether a licensee or not, to serve, sell, distribute, or suffer the consumption or possession of any alcoholic beverages upon the premises of an adult-oriented business.

1-11. Records; reports.

It shall be the duty of each person subject to the license tax imposed by this article to keep full and complete records of all purchases, sales, and deliveries of alcoholic beverages, from which records can be readily obtained information as to the correct amount of license tax due the city. As a part of such records, each wholesaler shall keep an individual ledger or card account for each records, each wholesaler shall keep an individual ledger or card account for each of his customers, and said ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered, together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by his authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom he purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof and the number of cases purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than three years succeeding said calendar year. All of such records shall be open for inspection and audit at the licensed premises within the city during such regular business hours as the city clerk-treasurer, or duly authorized representative, may request. Failure to keep any of the records required by this section, or elsewhere in this article, or by any amendment thereto, or refusal to make the same available to the city clerk-treasurer, or duly authorized representative, shall constitute grounds for revocation of any license issued under this article.

1-12. Packaging of beverages.

Retail licensees for off-premises sale of individual or packages of six or less alcoholic beverages must place each container thereof in a bag, box or other similar opaque covering prior to the customer's leaving the licensee building used for alcoholic beverage sales.

1-13. Open containers.

It shall be unlawful for any person to or allow another person to:

- (1) Possess, consume or otherwise use any open container containing alcoholic beverages while upon or along any public place, street, road or highway in the city, except in the case of alcoholic beverages that are sold, served or consumed as permitted pursuant to section 1-17.
- (2) Possess or use any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, school stadium, or school recreational facility.

1-14. Discrimination prohibited.

It shall be unlawful for any licensee to discriminate against any person with respect to the sale of any food, beverage, product, cover charge, or admission charge based upon race, color, creed, or sex. It is specifically provided that no alcoholic beverage licensee shall have or permit any entertainment, show, or presentation on the licensed premises to which any person is excluded based upon race, color, creed, or sex. This section shall apply to the licensee, manager, to any person in charge of any licensed premises, and to any employee of the licensee authorizing, permitting, or committing any violation hereof.

1-15. City alcohol license review committee created; powers and procedures.

- (a) There is hereby created for the purpose of assisting and advising the city council in the review of applications hereunder, and inquiry and recommendation concerning complaints or disciplinary action of a licensee, a committee to be known and designated as the city alcohol license review committee to be composed as follows: The city clerk-treasurer, or designated representative; the chief of police, or designated representative; the fire chief, or designated representative; the city planner, or designated representative; and three other members to be appointed by the city council. The city clerk-treasurer, or designated representative, shall act as liaison to the city council on behalf of the committee. The committee shall hold

meetings as are necessary to consider appeals by applicants hereunder, resolve matters of public concern, or make inquiry into the compliance of a current licensee with this article and other provisions of the Code.

- (b) The committee shall review the information contained within the application and shall submit a written recommendation to the city council concerning the approval or disapproval of the application before the applicant is submitted to the board.
- (c) The committee shall investigate complaints, or initiate its own inquiry, into conditions which may violate provisions of this article and/or state law concerning the operation of any licensee.
- (d) The committee shall have the authority to require the licensee to produce records for its review as related to the operation, ownership, or management of the licensed establishment. The committee may promulgate procedures for documenting and investigating complaints concerning the operation of an alcoholic beverage establishment as well as establishing a method of documenting violations of this article by a licensee or its employees.
- (e) The review committee shall operate under bylaws that are not inconsistent with this article.

1-16. Alcohol license tax bond.

- (a) It shall be the duty of each person subject to a license fee, privilege tax, or excise tax imposed by this article to deliver to the city a bond conditioned to promptly pay to said city all such amounts as are required to be paid to said city under the terms of this article, or any amendment hereto, and any other amount which may become due to the city for any license fee, privilege tax, excise tax, sales tax, ad valorem tax, or any other tax/fee/charge pursuant to state or local law/ordinance becoming due after the date of the bond. The amount of the bond shall be \$10,000.00 for each location of the person's business that is engaging in activity with respect to which a license or excise tax under this article is imposed. Such a bond must remain in place continuously during the entire period that the person is subject to a license fee, privilege tax, or excise tax imposed by this article.
- (b) With respect to those instances where the consent and approval of the city council is required with respect to the issuance of an alcoholic beverage license, such consent and approval will not be granted where the bond described in this section has not been delivered to the city clerk-treasurer, or the clerk-treasurer's designated representative. Moreover, where such a bond is required by this section, no business license shall be granted, renewed, maintained, or allowed to be transferred where the city clerk-treasurer, or his authorized representative, has not received or does not hold a valid and binding bond as required by this section.

Said bond shall be posted in substantially the same manner and form as shown below:

CITY OF Ashford

ALCOHOL ORDINANCE TAX OR FEE BOND

That _____, hereinafter called Principal, and _____, as Surety, are held and firmly bound unto the City of Ashford, Alabama, a municipal corporation, in the sum of _____, for the payment of which well and truly to be made we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing is such, however, that WHEREAS, as one of the conditions precedent to the consent and approval of the City Council with respect to the issuance of an alcoholic beverage license, or to the granting, renewal, maintenance, transfer or allowance of a business license, the Principal is required to deliver to the City of Ashford, Alabama, a bond conditioned to promptly pay to said City all such amounts as are required to be paid to said City under the terms of Ordinance No. ____, or any amendment thereto, and any other amount which may become due to the City of Ashford, Alabama for any license fee, privilege tax, excise tax, sales tax, ad valorem tax, or any other tax/fee/charge pursuant to state or local law/ordinance becoming due after the date of the bond.

NOW, THEREFORE, the condition of this obligation is such, that if the Principal shall faithfully comply with all the laws and ordinances of the City of Ashford now in force, or that may hereafter be adopted, and will promptly pay to said City of Ashford, Alabama all such amounts as may become due as required pursuant to state or local law/ordinance, then this obligation is to become null and void; otherwise to remain in full force and effect.

If the Surety shall so elect, this bond may be cancelled by providing notice through certified mail to the City clerk-treasurer of the City of Ashford, or his designated representative. This notice shall provide for 30 days' notice to the City of Ashford and this bond shall be deemed cancelled at the expiration of said 30 days; the Surety remaining liable, however, subject to all the terms, conditions, and provisions of this bond, for any acts covered by this bond which may have been committed by the Principal up to the date of such cancellation.

IN WITNESS WHEREOF, the said Principal and the said Surety have hereunto set their hands and seals at Ashford, Alabama on this the _____ day of _____, 20__.

(Seal)

Principal

BY

SEAL

(Seal)

Surety

BY

TITLE

1-17. Special authorization for sale of alcoholic beverages at festivals on portions of sidewalk or public ways.

The city council may authorize and permit licensees with a special event retail license or a nonprofit special events retail license in a downtown zone to sell alcoholic beverages for on-premises consumption on or along a portion of a sidewalk, street or public way, upon such conditions as the city council may prescribe, where:

- (1) The license relates to a festival event, entertainment event, or other recreational event where members of the general public may attend;
- (2) The activity is authorized by a special event permit or a nonprofit special events retail license issued pursuant to sections 54-31 through 54-71;
- (3) The licensed area is surrounded by a non-permanent barrier or fencing clearly delineating the borders of the licensed area during such event (where not bordered by permanent improvements);
- (4) Alcoholic beverages served or consumed by patrons on the licensed area shall not be in glass containers; and
- (5) The licensee has made adequate provision for security at the event.

ARTICLE II: LICENSE

2-1. Applicability.

The application provisions of this article shall apply where the consent and approval of the city council is required for an alcoholic beverage license. In all other cases related to alcoholic beverage sales, the application provisions of this article shall apply in connection with the City's determination of whether the proposed location or operation with respect to the alcoholic beverage sales is prohibited by municipal ordinance and with respect to any related city recommendation to the state alcoholic beverage control board.

2-2. Required; transfer, suspension; display.

- (a) It shall be unlawful for any person to have in such person's possession any alcoholic beverages within the city for the purpose of sale, or to sell, or keep for sale, or offer for sale, any alcoholic beverages, without having first procured a license and a business license. Licenses relating to the sale of alcoholic beverages may not be assigned or transferred. The city is hereby authorized to allow the address for the business licensed premises to be changed from one place to another within the city, as the city may determine appropriate; but shall not allow the sale of alcoholic beverages at a place for which the license could not originally have been issued lawfully.
- (b) In the event of a change of ownership of a licensed establishment, the current licensee and buyer shall be required to complete the "City of Ashford Transfer Request Alcoholic Beverage License" form with the city clerk-treasurer indicating this occurrence prior to either completing the sale of the licensed business, or relinquishing management or financial control of the business operation, whichever occurs first. The buyer and seller must also complete a transfer agreement with the state alcoholic beverage control board prior to or the day of the sale of the business; and additionally, the party to whom the licensed establishment is to be sold must file with the city a complete application city license within 30 days of notification to the city of the intent to sell, transfer, or assign the establishment. Upon request of the city clerk-treasurer, or designated representative, any applicant may be requested to produce records of the business or the transaction surrounding the sale of the business to determine the parties involved or the effective date of the transaction. These records include, but are not limited to, lease agreements, land sale agreements, bank statements, stock transfers, minutes of corporate board meetings, and/or purchase invoices. Any failure to produce the requested records, or a determination by the city that the transaction is not in compliance with the requirements specified herein will result in an immediate forfeiture of the city license upon notification of this determination and an opportunity for a public hearing by the city council.
- (c) It shall be unlawful to sell alcoholic beverages, and the city's consent and approval for such sale shall be deemed to expire, terminate, or otherwise be void when there is a substantial change in ownership in a licensed establishment, or when a licensed establishment is leased, rented, or abandoned, or when possession is otherwise surrendered to another party. Provided, however, that an applicant for a new license at a currently licensed establishment may be allowed to operate the establishment for a period not to exceed 60 days if said applicant is in compliance with subsection (b). In such case, the original licensee shall continue to be responsible for the conduct, operation and city tax liabilities of the establishment until such time as the city, in the new licensee's name, issues its approval.
- (d) Upon the death of an individual licensee, sale of the licensed establishment, or temporary closing of the licensed establishment for a period in excess of 30 days, it shall be unlawful to sell alcoholic beverages, and the city's consent and approval for such sale shall be suspended, pending the reopening of the business. In the event the temporary closing is due to any renovation, remodeling, or repair to the licensed premises, the licensee shall provide written evidence of compliance with applicable building, fire, and health codes to the city clerk-treasurer, or designated representative, prior to the release of the license.
- (e) For the purposes of this section, and to assist in defining a substantial change in ownership, the sale or transfer of 25 percent or more of a corporation's stock shall constitute a substantial change in ownership of the licensee.

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- (f) The city shall have the right to revoke any business license issued by the city for any violation of this article or the state alcoholic beverage control board rules and regulations, after notice and opportunity for a hearing before the city council.
 - (g) Every business license issued by the city to conduct normal and routine business and license issued by the state alcoholic beverage control board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the licensed premises.
 - (h) Each business that changes its name shall provide the city clerk-treasurer the new information within 30 days of the name change.

2-3. Application for lounge, club, restaurant, etc., license; deposit.

Each applicant, pursuant to section 2-1, shall make application to the city council as required in this article. Said application shall be upon an appropriate form supplied by the city clerk-treasurer, or duly authorized representative, and shall be signed and verified by oath or affirmation by the applicant, if a natural person, or in the case of a partnership, association or unincorporated enterprise, by a partner, limited liability company (LLC) or managing member thereof, or in the case of a corporation, by an executive officer thereof. The applicant shall deposit with the city clerk-treasurer the required application fee that includes the background check with the Alabama Bureau of Investigation (or a background check from a source that is otherwise acceptable to the board) and the amount of publication costs to be incurred hereunder upon filing the application.

2-4. Application procedures.

Applications shall be made in accordance with procedures generated by the city clerk in accordance with this article.

2-5. Review of application.

- (a) The application shall be submitted to the city clerk-treasurer, or designated representative as required by section 1-15.
- (b) In the event of approval by the city council, the city clerk-treasurer, or designated representative, shall be responsible for ensuring that written approvals of the police, building, fire and health, and city clerk-treasurer, or designated representative, are included as a part of the application indicating the satisfactory compliance with the applicable requirements for each respective department.
- (c) Subsequent to the city council approval and the applicant's compliance with subsection (b) of this section, the city clerk-treasurer, or designated representative, is hereby authorized to indicate, and communicate in writing, the city's approval for the issuance of a license for the applicant to the state alcoholic beverage control board. The method for the communication of this approval by the city shall be determined based on the most current mechanism indicated as acceptable by the alcoholic beverage control board field office supervisor responsible for the county.

2-6. Public notice.

- (a) Upon receipt of an application, together with the results of the investigation and recommendations made thereon, the city clerk-treasurer shall cause notice to be published one time in a newspaper of general circulation published in the city, stating that the application will be considered at the next regular meeting of the city council, which notice must be published as aforesaid at least three days in advance of the next regular meeting of the city council, and further stating the time and place that same is to be considered and that at such time and place all interested persons may appear at said meeting and be heard for or against the application. Such publication shall be at the applicant's expense.
- (b) All applicants seeking consent and approval for a license shall certify to the city that notice of the application stating the day and time it is to be heard and considered at said public hearing by the city council has been

circulated to residents, real property owners and businesses within 500 feet of the property sought to be licensed by either mailing the same to, or leaving a copy of said notice with, each such resident or business or with some person over 18 years of age at the home of such resident or at each business at least one week before the public meeting at which it is expected to be heard and considered by the city council.

2-7. Consideration of application.

In rendering a decision on each application for a license under this article, the city council may consider, among other things, the following factors:

- (1) The effects upon residents, real property owners and businesses within 500 feet of the property for which a license is sought (or a greater distance if otherwise required by this article).
- (2) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.
- (3) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.
- (4) The location of the premises for which a license is sought and the number of establishments presently holding licenses that are within 500 feet of the property for which a liquor license is sought.
- (5) The compliance by applicant, each partner, member, officer, member of the board of directors, landlord and manager with the laws of the state and ordinances for the city.
- (6) The recommendation of the city alcohol license review committee. Any recommendation factor must be grounded in the protection of the health, safety, and public welfare of the community.

2-8. Filing fee.

There is hereby required, as a filing fee to cover the costs of processing and investigating each application filed with the city, the sum of \$300.00, and the city clerk-treasurer or duly authorized representative shall not accept any application not accompanied by said payment to the city along with the payment of the publication costs, as required in this article. The city shall retain the filing fee to cover the expenses of processing and investigating said application, whether or not said application results in approval or denial, provided, however, that the filing fee for nonprofit special events retail license applications and special events retail license applications shall be \$75.00.

2-9. City alcohol license fees.

- (a) Each person licensed by the state alcoholic beverage control board, who shall engage in the alcoholic beverage, liquor, beer or wine business within the corporate limits, prior to engaging in such business shall pay to the city, for the privilege of so engaging in business, city alcohol license fees, including an annual privilege/ license fee and further privilege/license fees as established below:
 - (1) *Beer wholesale license.* Each person licensed as a beer wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state. In addition, each licensee will remit to the city clerk-treasurer, on forms provided by such clerk-treasurer, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 5B (Code of Ala. 1975, § 28-3-190 et seq.). Wholesale beer dealers and distributors will not sell to any retail outlet that is in violation of this article.
 - (2) *Wine wholesaler license.* Each person licensed by the state alcoholic beverage control board as a wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the

state. In addition, each licensee will remit to the city clerk-treasurer, on forms provided by such clerk-treasurer, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act (Code of Ala. 1975, § 28-7-1 et seq.). Wholesale wine dealers will not sell to any retail outlet that is in violation of this article.

- (3) *Beer and wine wholesale license.* Each person licensed as a beer and wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine and beer license by the state. In addition, each licensee will remit to the city clerk-treasurer, on forms provided by such clerk-treasurer, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 5B (Code of Ala. 1975, § 28-3-190 et seq.). In addition, each licensee will remit to the city clerk-treasurer, on forms provided by such clerk-treasurer, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act. Wholesale beer and wine dealers will not sell to any retail outlet that is in violation of this article.
- (4) *Warehouse license.* Each person licensed by the state alcoholic beverage control board to receive, store or warehouse alcoholic beverages within the state for transshipment inside and outside the state shall pay to the city an annual license fee of \$500.00.
- (5) *Club retail liquor license.* Each person licensed by the state alcoholic beverage control board to operate a club, class I or II, under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of \$1,500.00 if a class I club, and \$2,000.00 for a class II club. In addition, to said stated license fee, each person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of having engaged in such business in the subject month, an additional license tax of 15 percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.
- (6) *Lounge retail liquor license (class I).* Each person licensed by the state alcoholic beverage control board to operate a class I lounge retail liquor license under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the city an annual license fee of \$2,000.00. In addition to said stated license fee, each person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of having engaged in such business in the subject month, an additional license tax of 15 percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.
- (7) *Lounge retail liquor license (class II).* Each person licensed by the state alcoholic beverage control board to operate a class II lounge retail liquor license (which includes, but is not limited to, private package stores with such license) under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the city an annual license fee of \$2,000.00. In addition to said stated license fee, each person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of having engaged in such business in the subject month, an additional license tax of 15 percent (except that in the case of privately-owned class II lounge retail liquor licensees that operate their licensed premises primarily for the off-premises sale of alcoholic beverages, such percentage shall be ten percent) of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.
- (8) *Restaurant retail liquor license.* Each person licensed by the state alcoholic beverage control board to sell alcoholic beverages in connection with a restaurant retail liquor license under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual privilege license fee of \$1,500.00 if the establishment is a class I restaurant, or in the case of a class II restaurant, in the amount of \$750.00. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of so engaging in such business in the subject month, an additional license tax of 15 percent of the monthly gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.

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- (9) *Retail table wine license for off-premises consumption.* Each person licensed by the state alcoholic beverage control board to sell table wine for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the state.
 - (10) *Retail table wine license for on-premises and off-premises consumption.* Each person licensed by the state alcoholic beverage control board to sell table wine at retail for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the state, unless such person shall have paid for an on-premises liquor license.
 - (11) *Retail beer for on-premises and off-premises consumption.* Each person licensed by the state alcoholic beverage control board to sell beer for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state.
 - (12) *Retail beer for off-premises consumption.* Each person licensed by the state alcoholic beverage control board to sell beer for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state.
 - (13) *Special retail liquor license for on-premises consumption.* Each person who has obtained a special retail liquor license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city a license fee of \$250.00 when the period of use is 30 days or less. Such person shall pay to the city a license fee of \$350.00 when the period of use is more than 30 days. In addition to said stated license fee, each such person shall pay to the city 50 percent of the amount charged for state wine license by the state. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of so engaging in such business in the subject month, an additional license tax of 15 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.
 - (14) *Special events retail license for on-premises consumption.* Each person who has been recommended by the city and obtained a special events retail liquor license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq., as amended) shall pay to the city a license fee of \$200.00. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of so engaging in such business in the subject month, an additional license tax of 15 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.
 - (15) *Manufacturer license.* Each person who has obtained a manufacturer license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of \$350.00. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of so engaging in such business in the subject month, an additional license tax of 15 percent of the monthly gross receipts of such business derived from the retail sale of all alcoholic beverages received during such subject calendar month, except for beer and table wine.
 - (16) *Importer license.* Each person who has obtained an importer license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of \$350.00.
 - (17) *Liquor wholesale license.* Each person who has obtained a liquor wholesale license from the state alcoholic beverage control board under Code of Ala. 1975, § 28-3A-1 et seq. shall pay to the city an annual license fee of \$750.00.

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- (18) *Brewpub license.* Each person licensed by the state alcoholic beverage control board to sell alcoholic beverages in connection with a brewpub license under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual privilege license fee of \$750.00. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of so engaging in such business in the subject month, an additional license tax of 15 percent of the monthly gross receipts of such business derived from the retail sale of all alcoholic beverages received during such subject calendar month, except for beer and table wine.
- (19) *Nonprofit special events retail license for on-premises consumption.* There shall be no city alcohol license fees, or other city privilege/license fees, in connection with nonprofit special events retail licenses for on-premises consumption.

2-10. Reports of business done and tax due.

The person liable for any license tax or other tax imposed by this article shall file with the city clerk-treasurer or duly authorized representative, on or before the final date on which the tax may be paid without a penalty, such report in such form as the city clerk-treasurer or duly authorized representative, may prescribe, evidencing the amount of business done and the amount of license tax or other tax due thereon, together with full payment for any tax liability. Any failure to comply with this section shall be declared unlawful and be punishable as such.

2-11. Alabama Responsible Vendor Act.

- (a) Except in the case of a special events retail license or nonprofit special events retail license, each business requesting to sell alcoholic beverages within the city must obtain business certification through the Alabama Responsible Vendor Program within 30 days of license approval by the state alcoholic beverage control board.
- (b) Upon a licensee becoming decertified from the Alabama Responsible Vendor Program, it shall be unlawful for such licensee to sell, or offer for sale, any alcoholic beverage, and the city's consent and approval for such sale shall be deemed to expire, terminate, or otherwise be void until such licensee is reinstated to the Alabama Responsible Vendor Program.

State law reference(s)—Alabama Responsible Vendor Act, Code of Ala. 1975, § 28-10-1 et seq.

2-12. Special events retail license and nonprofit special events retail license.

All applications relating to special event retail licenses or a nonprofit special events retail license shall be filed with the city clerk at least 25 days in advance of the event for which a license is sought. An applicant for a special event retail liquor license or a nonprofit special events retail license must receive the approval of the city council pursuant to section 2-1 (and applicable provisions referenced thereby, including review and recommendation by the city alcohol license review committee). However, in the case of an applicant for a special event retail liquor license or a nonprofit special events retail license:

- (1) An applicant shall not be required to deliver the bond discussed in section 1-16;
- (2) A background check with the Alabama Bureau of Investigation shall not be required; and
- (3) Public Notice shall not apply.

2-13. Sale of draft or keg beer.

- (a) The sale of draft or keg beer or malt beverages for on-premises consumption by those retail licensees otherwise permitted to sell beer for on-premises consumption is authorized subject to subsection (c), below.
- (b) The sale of draft or keg beer or malt beverages for off-premises consumption by retail licensees otherwise permitted to sell beer for off-premises consumption is authorized, subject to subsection (c) below.

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- (c) All ordinances and resolutions relating to the sale, consumption, and possession of bottled or canned beer shall apply to the sale, consumption, and possession of draft or keg beer or malt beverages.

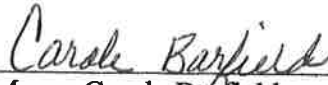
2-14. Entertainment district.

- (a) The city council may create an entertainment district within the city by the approval of a resolution recorded in its official minutes whenever the city council finds that the proposed district satisfies the requirements of Code of Ala. 1975, § 28-3A-17.1 and this section. Any such resolution must include a map delineating the boundaries of the entertainment district.
- (b) The state alcoholic beverage control board may issue an entertainment district designation to any retailer licensee that is licensed to sell alcoholic beverages for on-premises consumption and to any manufacturer licensee that conducts tastings or samplings to the licensed premises within the entertainment district. A licensee who receives an entertainment district designation shall comply with all laws and rules governing its license type, except that the patrons, guests, or members of that licensee may exit that licensed premises with open containers of alcoholic beverages and consume alcoholic beverages anywhere within the confines of the entertainment district, but they may not enter another licensed premises with open containers or closed containers of alcoholic beverages acquired elsewhere.
- (c) The entertainment district shall only be operative and in effect during the same hours for which the sale of alcoholic beverages is permitted under section 1-9(Authorized Hours).
- (d) To exit a licensed premises within the entertainment district with alcoholic beverages, all alcoholic beverages shall be in a shatter-proof container for the district with color(s) and/or logos for the district, according to rules or directives issued by the office of the mayor. The container shall not exceed a volume of 16 fluid ounces. No establishment shall dispense to any person more than two such alcoholic beverage at a time for removal from the premises. No licensee who receives an entertainment district designation shall allow alcoholic beverages to be removed from the licensed premises in other than approved containers (except with respect to sales for off-premises consumption pursuant to Code of Ala. 1975, § 28-3A-20.1 (concerning removal of one resealed bottle of wine), or as otherwise permitted by Alabama law).
- (e) Patrons, guests, and members of retailer licensees within the entertainment district shall not be permitted to possess or consume alcoholic beverages within the confines of the entertainment district that are acquired outside the confines of the entertainment district. No person shall be in possession of any alcoholic beverage container within the entertainment district area that is not approved for use within the district.
- (f) Section 1-6(concerning the possession of an open container or drinking an alcoholic beverage on a sidewalk, public way, or in a public place, or bringing the same onto other premises), section 1-13(concerning open containers on public streets/sidewalks and public places), and subsections 1-4(b)—(f) (concerning off-premises consumption and distance requirements) shall not apply in the case of the possession or consumption of alcoholic beverages in an approved container outside a licensed premises and within the confines of the entertainment district during the hours set forth in subsection (c) above.
- (g) The entertainment district shall not extend to, nor shall this section apply to, (i) the interior of any automobile or other motor vehicle, (ii) any private property where alcoholic beverages are prohibited by the owner or proprietor of such property, and (iii) any area that is being used for a special event pursuant to chapter 54, article II (special events) of the this Code and that is posted by the organizer of such special event with signage at each entrance or in conspicuous places that no alcoholic beverages are allowed in the area.
- (h) It shall be unlawful for any person to re-use or to knowingly allow the re-use of an approved container for the entertainment district for an alcoholic beverage and nothing in this section shall be construed to authorize the same.
- (i) At any time and from time to time, the chief of police shall have the authority to temporarily close the entertainment district, or portions of the same, which includes the authority to require persons to disperse

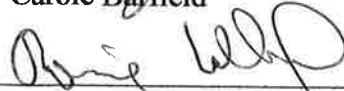
from the area, should he/she, in his/her sole discretion, determine it is appropriate to do so in order to protect the public health, safety, or general welfare. In such case, the entertainment district shall remain closed until the chief of police allows the district to be re-opened. The city shall not be responsible for any costs incurred by any person as a result of the closing.

- (j) In the event the entertainment district established by this section falls below the number of alcoholic beverage licensees required for the establishment of the district according to state law, then the city may amend this section to either eliminate the entertainment district or modify the district so as to remain in compliance with state law, unless applicable state alcoholic beverage control laws allow for continuance of a once-established district regardless of the number of alcoholic beverage licensees remaining.
- (k) Nothing herein is intended to confer any rights or entitlement. Selling and/or consuming alcohol within a district is a privilege, not a right, and is subject at all times to reasonable regulation. The council reserves the right to modify or repeal this section, and any entertainment district designation created thereunder, at any time.

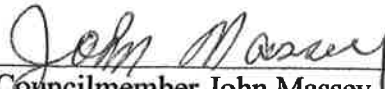
Alcohol Ordinance 2022-002



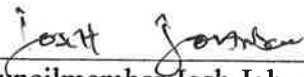
Mayor Carole Barfield



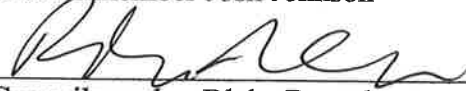
Mayor Pro-Tem Ronnie Whitehead



Councilmember John Massey

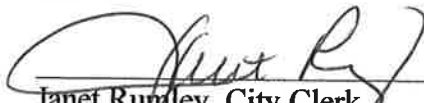


Councilmember Josh Johnson



Councilmember Blake Rosenkoetter

Attest:



Janet Ruppley, City Clerk

Councilmember James Smith