

ORDINANCE NUMBER 2010-01

AN ORDINANCE REGULATING THE SALE, ADVERTISING AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF MOULTON, ALABAMA, PROVIDING LICENSING AND REVOCATION PROCEDURES AND ESTABLISHING PUNISHMENT FOR VIOLATIONS

ARTICLE I. ALCOHOLIC BEVERAGE CONTROL

DIVISION 1. GENERALLY

Sec. 1-1. Short title.

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

Sec. 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 the sale, distribution or possession of alcoholic beverages. This article shall be construed as an exercise by the City of Moulton, Alabama, hereafter referred to as "City" of the police power of the state delegated to the City in the regulation of traffic in alcoholic beverages within the City as provided by state law.

Sec. 1-3. Definitions.

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:

Alcoholic Beverages means any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquors, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes which contain one-half of one (1) percent or more of alcohol by volume and shall include liquor, beer, and wine, both fortified and table wine.

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.

Beer means any beer, lager beer, ale, porter, malt or brewed beverage or similar fermented malt liquor containing one-half of one (1) percent or more of alcohol by volume and not in excess of four (4) percent of alcohol by weight and five (5) percent by volume, by whatever name the same may be called.

Board means the Alabama Alcoholic Beverage Control Board.

Business owner means a person or persons issued a privilege license by the City to conduct routine business.

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.

Church means an entire house or structure set apart primarily for use for purposes of public worship, and 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 structure is kept for that use and not put to any other use inconsistent therewith.

City means the corporate limits of the Municipality of Moulton, Alabama.

City alcoholic license fee means a fee charged by the City to a person who 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.

Clerk means the City Clerk of Moulton, Alabama.

Container means the single bottle, can, keg, bag or other receptacle, in which alcoholic beverages are originally packaged for the market by the 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/or other motor fuels. A convenience store shall not be considered a package store if no more than 25 percent of the floor space, excluding coolers and dry storage area, is dedicated to the public display of alcoholic beverages.

Council means the Moulton Alabama City Council.

Distributor means any person transporting alcoholic beverage within the City for such person's own retail use or for delivery to a retailer whether or not the same be owned by such person.

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.

License means a retail alcoholic beverage license or any other license issued by the state alcoholic beverage control board requiring consent and approval of the City Council.

Licensee means any person licensed by the City Council for the privilege of engaging in a business involved in the sale of alcohol.

Liquor means any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic and all drinks or drinkable liquids, preparations or mixtures, intended for beverage purposes which contain more than one-half of one(1) percent of alcohol by volume except malt or brewed beverages and table wine as defined herein.

Malt or brewed beverages means any beer, lager beer, ale, porter, or similar fermented malt liquor containing one half of one(1) percent or more of alcohol by volume and not in excess of four(4) percent alcohol by weight and five(5) percent by volume, by whatever name the same may be called.

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.

Nursing Home or Assisted Living Facility means a facility licensed by the Alabama Department of Public Health as a residential facility for geriatric, disabled or convalescing patients and providing either life skills assistance or nursing care, or both, to residents.

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

Package store means a specialty beverage store which, in addition to items specified in the definition of specialty beverage stores, may also sell liquor at retail for off-premises consumption.

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 21 years of age or older, whether owner, partner, officer, or employee of the alcoholic beverage 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.

Privilege license means a privilege or business license issued by the City to a person to conduct routine business.

Public place means any place or gathering which the public generally attends or is admitted to either by invitation, common consent or right, or by payment of an admission or other charge, and without limiting the foregoing, shall include any streets, alleys, sidewalks, public easements, or rights-of-way, parking lots designed for use by the general public, public buildings, buildings which are open to the public including but limited to school buildings or grounds, parks and libraries, places where school related and recreational games or contests are held, any theater, auditorium, show, skating rink, dance hall or other place of amusement or any club, provided that such term shall not mean or include premises which have been duly licensed under the ordinances of the City and the laws of the state for sale or consumption of such beverages and provided that no private gathering is included within the meaning of public place with respect to the owners or occupants of such premises or place or to any persons specifically invited therein; provided, that such term shall not mean or include premises which have been duly licensed by the City for sale thereon of such beverages.

Restaurant, Class I, 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 within the building in which the establishment is located, and which meets the following additional requirements:

- (1) A dining space containing 1,000 square feet or more on one floor in one room shall have a mandatory class I designation.
- (2) The dining room shall be equipped with tables and chairs and adequately air conditioned and heated as appropriate.
- (3) All spaces of a restaurant must comply with the adopted building code occupancy requirements.
- (4) A kitchen separate and apart from said dining area, but adjoining the same, in which food is prepared for consumption by the public and which the food or meals served in said dining area are prepared.
- (5) At least one meal per day shall be served at least five days a week, with

the exception of holidays, vacations and periods for redecorating.

(6) Such place shall meet the minimum requirements for a state alcoholic beverage control board on-premises license.

(7) The serving of food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt 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 60 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other 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.

Restaurant-lounge, shall mean any place or premises in which foods, refreshments, liquor, beer and wines are offered for consumption within the building in which the establishment is located, which is operated by a responsible person of good reputation and which meets the following additional requirements:

(1) A restaurant-lounge area is allowable if located in the same building as the main restaurant. The bar area shall not exceed twenty (20) percent of the gross area of the main restaurant, and shall be owned and operated by the owners of the main restaurant.

(2) Such place shall be duly licensed by the ABC Board of the State of Alabama for the sale of liquor for on-premises consumption; and

(3) The serving of such food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines, or other alcoholic beverages being only an incidental part of said business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute at least sixty (60) percent of the gross receipts of the business.

Retail, off-premises, package alcoholic beverage store means a place at which alcoholic beverages are offered for off-premises consumption that is operated by a responsible person of good reputation in which more than 25% of the available floor space, excluding coolers and dry storage areas, are dedicated to the public display of alcoholic beverages and which meets the following additional requirements:

(1) In the event liquor is to be sold on the premises, such places shall be duly licensed by the ABC Board of the state of Alabama for the sale of liquor for off-premises consumption.

(2) Such place shall not sell gasoline or other motor fuels.

(3) Such place shall meet the following building requirements:

- a. The building must be separated from any other building by a wall or firewall with no way of entrance to an adjoining building.
- b. There shall be no windows except plate glass windows in the front of building which must be protected by burglar bars or burglar alarm. No drive-through windows will be allowed.
- c. There shall be no public seating in the building.
- d. The doors to the building must be metal framed with deadbolt locks.

e. There shall be complete day/night lighting in front and rear of the building.

f. All stock must be kept in the same building in which it is offered for sale; it cannot be stored off the premises.

(4) No form of entertainment, including arcade machines, music machines, bingo machines, pool tables or similar devices, shall be permitted to operate.

(5) Cocktail mixes may be sold under this license, but no other license such as for selling snacks, crackers, cakes, etc., shall be combined with this license.

Retail means sale of any alcoholic beverages to the consumer.

Retailer means any person licensed by the board to sell alcoholic beverages to consumers.

Sale or sell means any transfer of any alcoholic beverage for a consideration, and any gift in connection with, or as a part of, a transfer of property other than an alcoholic beverage as a consideration.

School means a state accredited public or private elementary, intermediate, middle, junior high or senior high school, or child developmental facility.

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

Wholesaler means any person licensed by the board to engage in the sale and distribution of table wine and beer, or either of them, within this state at wholesale only, to be sold by export or retail licensee, or other wholesale licensees, or others within this state lawfully authorized to sell table wine or beer, or either of them, for the purpose of resale only.

Wine means all beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits and produced in accordance with the laws and regulations of the United States, containing not more than twenty-four (24) percent alcohol by volume, and shall include all sparkling wines, vermouths, vinous beverages, vinous liquors and like products.

(1) Fortified wine means any wine containing more than fourteen (14) percent alcohol by volume, but not more than twenty-four (24) percent.

(2) Table wine means any wine containing not more than fourteen (14) percent of alcohol by volume.

Sec. 1-4. Types of facilities; location of premises or near church or school.

(a) In addition to all other regulations and restrictions, no facility or property shall be authorized for the sale of on-premises consumption or for the sale for off-premises consumption of alcoholic beverages, except for the following:

(1) Restaurants licensed to sell alcoholic beverages for on-premises consumption;

(2) Convenience stores licensed to sell beer and/or table wine for off-premises consumption;

(3) Grocery stores licensed to sell beer and/or table wine for off-premises consumption;

(4) Restaurant-Lounge, for on premises consumption.

(5) Package stores- off premises.

(b) In addition to all other regulations and restrictions, and subject to exceptions contained in this section, no package store, facility or property shall be authorized for the sale of off-premises consumption of alcoholic beverages where the facility or property is less than 1000 feet from any church, public or private elementary, intermediate, middle or junior high, high school, nursing home or assisted living or child development facility. The aforesaid distance restriction in this subsection shall not apply in the following enumerated cases:

(1) Where the church, school, nursing home or assisted living or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months; or

(2) Where the establishment upon the facility or property is a grocery store as defined herein.

(d) When measuring from a church, school, nursing home or assisted living or child development facility, the closest exterior wall of the closest building in the church, school, assisted living or child development facility complex wherein an essential function or activity of the church, school, assisted living or child development facility is carried on shall constitute the beginning point for measurement. When measuring from the facility or property line, the closest point on the exterior wall of the building occupied by the person seeking to sell 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. The method of measurement is a straight line from the aforementioned defined points.

(e) 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.

Sec 1-5. On premises advertising

It shall be unlawful for any on premises or off premises consumption of alcoholic beverage facilities to advertise alcoholic beverages on its facility or property where the advertisement is visible from the exterior of the facility or property. The aforesaid advertising restrictions shall not apply to package store interior window advertisements at that facility.

Sec. 1-6. 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 retail liquor, retail table wine or retail malt or brewed licensed premises, 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 retail liquor, retail table wine or retail malt or brewed beverage licensed premises within the City, 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.

Sec. 1-7. Offenses in public.

(a) 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 in any public building or upon any public property, or while in any other public place in the City. As used in this section, the term "public place" shall mean and include any place or gathering which the public generally attends or is admitted to, either by invitation, common consent or right or by the payment of an admission or other charge, and, without limiting the generality of the foregoing, shall include public parks, City hall, library, school buildings auditoriums, any store or place where amusement and any high school athletic contest; provided, that such term shall not mean or include premises which have been duly licensed by the City as provided by the Code of Alabama, 1975.

(b) It shall be unlawful for a business licensed by the City, whether or not the business is licensed to sell or furnish alcohol to allow patrons, customers, invitees or guest to bring alcoholic beverages into or onto the licensed premises.

(c) 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.

Sec. 1-8. 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.

Sec. 1-9. Minors. A Person Under Twenty-One Years Of Age

(1) 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, or to any habitual drunkard.

(2) It shall be unlawful for any person to serve to a minor or allow a minor to be served any liquor, beer or wine in any place where such beverages are sold.

(3) It shall be unlawful for any person who operates any business of selling liquor, beer or wine to allow any liquor, beer or wine to be sold to any minor, or to be consumed by any minor, on the premises where such liquor, beer or wine is sold.

(4) It shall be unlawful to do or perform any of the acts or things designated

as follows:

(a) For any minor person, directly or indirectly, to purchase any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.

(b) For any minor person to possess or to consume any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, in any public place, or in any business establishment or restaurant.

(c) For any person to sell, furnish, give to or purchase for any minor person any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to sell, furnish, give to or purchase for any minor person any of said beverages.

(d) For any person to hire, employ or allow any person under nineteen (19) years of age to serve or dispense alcoholic beverages of any kind. However, this prohibition does not apply when the only license held by the licensee is an off-premises beer license or an off-premises table wine license or a combination thereof, and provided there is an adult in attendance at all times.

(e) For any minor person, directly or indirectly, to falsely represent that such person is not a minor or is not under twenty-one (21) years of age, by means of which false representation such person buys, receives or otherwise obtains, or attempts to buy, receive or otherwise obtain any malt or brewed beverages, any wine or liquor or any alcoholic or intoxicating beverages.

(f) For any person, directly or indirectly, to falsely represent or attempt to falsely represent that a minor person is not a minor or is not twenty-one (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.

(g) For any person under nineteen (19) years of age to enter or remain within the premise of an establishment licensed for the on-premise consumption of alcoholic beverages. However, this prohibition does not apply when the establishment is currently licensed as a restaurant as defined in Section 1-3 of this article, or when the only alcoholic beverage license is for on-premise beer or on-premise table wine, or any combination thereof, or when the person is employed by the licensee for the provision of entertainment and in such case, this person is limited in access to only the performance area of the premises. In no case shall this minor person be allowed to participate in the sale, serving or dispensing of any alcoholic beverages or any other function of the licensee excepting the entertainment.

Sec. 1-10. Authorized hours.

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 12:00 a.m. and 8:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of any week, or between the hours of 12:00 a.m. on Sunday of any week and 8:00 a.m. of the following Monday.

Sec. 1-11. Regulation of conduct on licensee premises

It shall be unlawful for any person, firm or corporation or the officers, members, agents, servants or persons in charge thereof at any place to which the public generally resorts or is admitted, which is a liquor, wine or beer

licensed place, or any combination thereof, to permit, allow, conductor condone any of the following:

(1) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashier or any lewd or indecent conduct.

(2) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(3) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.

(4) Acts involving the displaying of the anus, vulva or genitals.

(5) Permitting any patron, customer or member to touch, caress or fondle the breasts, buttocks, anus or genitals, or any part of the body or clothing of a performer or entertainer.

(6) Permitting the showing of films, still pictures, electronic reproductions or other visual reproductions depicting:

a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

b. Any person being touched caressed or fondled on the breasts, buttocks, anus or genitals.

c. Scenes wherein a person displays the vulva or the anus or the genitals.

d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in this section.

(7) Any employee including but not limited to, waiter, waitress, dancer, entertainer, performer or model employed upon the licensed premises to sit at tables with the customers or members and guests while so employed and during the time that said establishment is open for business.

(8) Any person at the time employed or engaged on the licensed premises as an entertainer or performer, to also serve as a waiter or waitress while so employed.

(9) The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the darkened area surrounding the nipple, or the depiction of covered male genitals in a lewd or indecent manner by any waiter, waitress, dancer, entertainer, employee, model or customer.

Sec. 1-12. 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. In addition thereto, in January of each year, each person who is obligated to pay a privilege or excise tax to the City based on the gross receipts of the business (pursuant to section 1-79) shall file an annual report, made under oath, showing the gross receipts of the business for each month during the prior calendar year.

Sec. 1-3 Packaging of Beverages.

Retail licensees for sale of off-premises consumption 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.

Sec. 1-14. Open containers.

It shall be unlawful for any person or 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.
- (2) Possess or use any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, and school stadium or school recreational facility.
- (3) Possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag or other receptacle, while upon or along any public street, road or highway in the City or while in any automobile or other motor vehicle on or along any public street, road or highway in the City, or while in any other public place in the City.

Sec. 1-15. Discrimination prohibited.

It shall be unlawful for any alcoholic beverage licensee of the City 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.

Sec. 1-16. 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 for City licenses, and for inquiry into and recommendation concerning complaints or disciplinary action of a City licensee, a committee to be known and designated as the City alcohol license review committee to be composed as follows: The City clerk, or designated representative and the chief of police, or designated representative. The City clerk, 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 applications and appeals by applicants for alcohol licenses, resolve matters of public concern, or make inquiry into the compliance of a current City licensee with this article and other provisions of this article.

(b) The committee shall review the information contained within the application for an alcoholic beverage license and shall submit a written recommendation to the City Council concerning the approval or disapproval of the application before the applicant appears before the City Council.

(c) The committee shall investigate complaints, or initiate its own inquiry, into conditions which may violate provisions of this article concerning the operation of any establishment licensed by the City to conduct routine business in the sale of alcoholic beverages as allowed by state law.

(d) The committee shall have the authority to require the licensee to produce information and records for its review as related to licensing and to the operation, ownership, or management of the licensed establishment. The committee shall 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.

Sec. 1-17. 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 with surety acceptable to the City 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 licensee fee, privilege tax, or excise tax 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 effect 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, or the clerk's designated representative. Moreover, where such a bond is required by this section, no privilege license shall be granted, renewed, maintained, or allowed to be transferred where the City Clerk's, 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 MOULTON, ALABAMA

ALCOHOL ORDINANCE TAX OR FEE BOND

That _____, hereinafter called Principal, and _____, as Surety, are held and firmly bound unto the City of Moulton, 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 privilege license, the Principal is required to deliver to the City of Moulton, 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. 2010-001, or any amendment thereto, and any other amount which may become due to the City of Moulton, Alabama for any license fee, privilege tax, or excise tax imposed by said ordinance and 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 Moulton, Alabama now in force, or that may hereafter be adopted, and will promptly pay to said City of Moulton, Alabama all such amounts as may become due as required under the terms of the above license, 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 of the City of Moulton, or his designated representative. This notice shall provide for 30 days' notice to the City of Moulton 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 Moulton, Alabama on this the _____ day of _____, _____.

_____(Seal)
Principal

BY _____
SEAL

_____(Seal)
Surety

BY _____
TITLE

Sec. 1-18. Additional regulations concerning the sale of retail liquor for off-premises consumption.

(a) Sale of retail liquor for off-premises consumption.

(1) In addition to all other regulations and restrictions, no facility or property shall be authorized for the sale of retail liquor for off-premises consumption where the same is situated in any zoning district other than a B-1 and B-2 zones. The sale of retail liquor for off-premises consumption shall only be permitted in a B-1 and B-2 zones subject to such other rules and regulations as prescribed by law, including, without limitation, conditional use regulations prescribed by the City's zoning ordinance.

(2) In addition to all other regulations and restrictions, and subject to exceptions contained in this subsection, no package store shall be authorized for the sale of retail liquor for off-premises consumption where the building in which the premises are located is less than 1000 feet from any church, public or private elementary, intermediate, middle or junior high, high school, nursing home or assisted living or child development facility. The method of measurement shall be the same method as found in section 1-4. The 1000 feet shall not apply where the church, school, nursing home or assisted living or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.

(b) Sale of retail liquor for on-premises consumption.

(1) In addition to all other regulations and restrictions, no facility or property shall be authorized for the sale of retail liquor for on-premises consumption where the same is situated in any zoning district other than a B-1 and B-2 zones. The sale of retail liquor for on-premises consumption shall only be permitted in a B-1 and B-2 zones subject to such other rules and regulations as prescribed by law, such as conditional use regulations prescribed by the City's zoning ordinance.

(2) In addition to all other regulations and restrictions, no package store shall be authorized for the sale of retail liquor for off-premises consumption where the facility or property is less than five hundred(500) feet from another package store 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.

(c) Appeals. 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.

Sec. 1-19. Sales Restricted to B-1 and B-2 zones.

There shall be no sales of alcoholic beverages for on-premises or off-premises consumption except in the B-1 and B-2 zones of the City

Secs. 1-20 through 1-70. Reserved.

DIVISION 2. LICENSE

Sec. 1-71. Applicability when Council approval required.

In those instances where the consent and approval of the City Council is required for an alcoholic beverage license, other than where specified by statute, the application provisions of this article shall apply.

Sec. 1-72. 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 from the City a privilege or business license and a City alcoholic beverages sales license, plus any license required by the Board. The City is hereby authorized to allow the address for the licensed premises to be changed from one place to another within the City, as the City may determine appropriate; but not so as to allow the transaction of business 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 Moulton Transfer Request Alcoholic Beverage License" form with the City Clerk 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. Additionally, the party to whom the licensed establishment is to be sold must file with the City a completed application for a license from the City within 30 days of notification to the City of the intent of the licensee. Upon request of the City clerk-treasurer, or designated representative, any applicant shall 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 shall be grounds for an immediate forfeiture of the City license upon notification of this determination and an opportunity for a public hearing by the City Council.

(c) Licenses issued by the City 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) of this section. 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 a license.

(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, the City license to sell alcoholic beverages shall be immediately returned to the City Clerk, or designated representative, to be held 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, or designated representative, prior to the release of the license. No sale of alcoholic beverages shall be lawful while the City is holding the license pursuant to this section.

(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 or the transfer of an interest of 25 percent or more in any other entity shall constitute a substantial change in ownership of the licensee.

(f) The City shall have the right to revoke any privilege 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 privilege 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 the new information within 30 days of the name change.

Sec. 1-73. Application for lounge, restaurant, etc., license; deposit.

Each applicant seeking the consent and approval of the City Council for lounge retail liquor license, a restaurant retail liquor license or other license issued by the state alcoholic beverage control board 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 licensee, 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 the required application fee that includes the background check with the Alabama Bureau of Investigation and the amount of publication costs to be incurred hereunder upon filing the application.

Sec. 1-74. Application for retail liquor license.

Application for retail liquor license shall be made in accordance with City procedures. The Applicant must submit a copy of the application submitted to the State of Alabama Alcoholic Beverage Control Board.

Sec. 1-75. Review of application.

(a) The application shall be submitted to the City clerk, or designated representative.

(b) In the event of approval by the City Council, the City Clerk, or designated representative, shall be responsible for ensuring that written approvals of the police, building, fire and health, and City Clerk, 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's approval and the applicant's compliance with subsection (b) of this section, the City Clerk, or designated representative, is hereby authorized to indicate, and communicate in writing, the City Council'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.

Sec. 1-76. Public notice.

(a) Upon receipt of an application, together with the results of the investigation and recommendations made thereon, the City Clerk shall cause notice to be published one time in a newspaper published in Lawrence County of general circulation within 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 six 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 City 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 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.

Sec. 1-77. Consideration of application.

In rendering a decision on each application for a license under this article, the City Council shall consider, among others, 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.
- (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 liquor, (wine, or beer as amended by Ordinance 2010-02) license whose place is sought and the number of establishments presently holding liquor (wine, or beer as amended by Ordinance 2010-02) licenses whose place of business 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 public's health, safety, and welfare.

Sec. 1-78. Filing fee.

There is hereby required, as a filing fee to cover the costs of processing and investigating each application filed with the City for a City license of any kind or class, the sum of \$300.00, and the city clerk-treasurer or duly authorized representative shall not accept any application for any such license 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.

Sec. 1-79. 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, an annual privilege business license fee and further 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, on forms provided by such clerk, 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 within the City of Moulton that does not have a current City license.

(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, on forms provided by such clerk, 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 within the City of Moulton that is not properly licensed by the City.

(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, on forms provided by such clerk, 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, on forms provided by such clerk, 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 not properly licensed by the City.

(4) Warehouse license.

Each person licensed by the state alcoholic beverage control board to receive, store or warehouse alcoholic beverages within the City for transshipment inside and outside the state shall pay to the City an annual license fee of \$500.00.

(5) Lounge retail liquor license. (Repealed by Ordinance 2010-02)

Each person licensed by the state alcoholic beverage control board to operate a retail lounge 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 calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, 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 immediate next preceding calendar month.

(6) Retail liquor for off-premises consumption. (Package Stores)

Each person licensed by the state alcoholic beverage control board to ~~operate a retail lounge under the Alcoholic Beverage Licensing Code (Code of Ala.1975, § 28-3A-1 et seq)~~ sell liquor, table wine and beer at retail 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 calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, 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 immediate next preceding calendar month.

(7) Restaurant retail liquor license.

Each person licensed by the state alcoholic beverage control board to sell alcoholic beverages in connection with the operation of a restaurant 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. In addition to the stated license fee, each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 15 percent of the monthly gross receipts of such business derived from the sale and/or including.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) Special retail liquor license for on-premise 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, (1) each such person shall pay to the City an amount equal to 50 percent of the amount charged for state wine license by

the state. In addition to the stated license fee, (2) each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said 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 immediate next preceding calendar month.

(13) 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.) shall pay to the City a license fee of \$200.00. No such license shall be issued for a period in excess of seven days. Such alcoholic beverages as are authorized by the state alcoholic beverage control board may be sold. All applications for special event licenses shall be filed with the City clerk-treasurer at least 25 days in advance of the event for which a license is sought. In addition to the stated license fee, each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said 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 immediate next preceding calendar month shall apply to the applicant for a special event retail liquor license. Each item listed below.

- a. Submit the required filing fee (\$75.00).
- b. Receive affirmative recommendation to the City Council by the City alcohol review committee.
- c. Receive approval from the City Council.
- d. Receive license from state alcoholic beverage control board.
- e. Pay the required license fee (\$200.00).
- f. Each applicant/organization shall not be allowed to apply for more than five special event licenses in any one calendar year.
- g. No sale of alcohol is to be sold during a special event on any Sunday after 2:00 a.m.
- h. Shall be required to purchase the alcoholic beverages from a wholesale licensee of the state alcoholic beverage control board.

(14) 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.

(15) 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.

(16) Wholesale liquor license.

Each person who has obtained a wholesale liquor 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.

(a) The term "gross receipts," as used in this section, shall not include any so-called "additional license tax" levied by the City under the provisions of this section that are based solely on gross sales and that are directly passed on by the licensee/seller to the consumer/purchaser.

(b) The stated annual license fee levied by the schedule under the foregoing provisions shall be due January 1 of each year and shall be delinquent after January 31 of the year for which such license is due, and a penalty of ten percent of the license amount shall be collected during February--March; 20 percent during April--June; 30 percent during July--September; and 40 percent during October--December. In addition, such person must pay a \$200.00 citation fee. There shall be no pro rata refund of any license fee because of having operated only a part of a calendar year, except as required under state law, nor shall any rebate be allowed upon revocation, suspension, abandonment or surrender of such license before the expiration thereof. All additional license taxes levied by said schedule shall be due the 15th day of the calendar month specified in each levy and shall be delinquent if not reported and paid by such date.

(c) Every person subject to this division may take a discount in an amount equal to two percent of all taxes paid to the City under the provisions of this division, provided the reports are made and the taxes paid before the same become delinquent hereunder. If reports are not filed within the time herein provided and the taxes not paid on the dates herein provided for, such person shall pay to the City the full amount of tax together with interest at the rate of three percent per month, or fraction thereof, from the date the payment of such tax became delinquent; a penalty of 15 percent of the amount of the tax; and a citation fee of \$150.00; for which interest, penalty, and citation fee must be paid by such person.

Sec. 1-80. 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 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 for such as outlined in this ordinance.

Sec. 1-81. Alabama Responsible Vendor Act.

(a) Each business requesting to sell alcoholic beverages within the City must obtain business certification through the Alabama Responsible Vendor Program within 60 days of license approval by the state alcoholic beverage control board.

(b) Upon a business becoming decertified from the Alabama Responsible Vendor Program, the City privilege license shall be suspended or revoked for so long as such decertification continues and for a period, in the City's discretion, not to exceed one year after the effective date of recertification.

State law references: Alabama Responsible Vendor Act, Code of Ala. 1975, § 28-10-1 et seq.

Sec. 1-82. Readdressing property to qualify for distance restrictions prohibited.

For all purposes under this article, all premises shall be deemed to front on the street upon which its official E-911 address is designated. Where any person has caused the E-911 address of any premises to be changed for the purpose of allowing such premises to qualify for a license or any location exception or provision under this ordinance, no license for the sale of alcoholic beverages shall be issued to any person for such premises. Such change of address shall be conclusively presumed to have been made for the purpose of qualifying the premises or property as falling beyond any distance restrictions under this article if application for a license to sell alcoholic beverages is made for any premises where any person has caused the E-911 address for such premises to have been changed within a period of one (1) year next preceding such application for license and there shall be a rebuttable presumption of such change for the purpose of qualifying for such exception where such application is made greater than one year after such change is made. In cases where the rebuttable presumption applies, no license shall issue unless the Council, after hearing such matters as the applicant shall present to it, shall find from clear and convincing evidence that the E-911 address change was not made for such purpose.

Secs. 1-83 through 1-100. Reserved

ARTICLE II. VIOLATION; PUNISHMENTS; GENERAL PROVISIONS

Sec. 2-1. Violation Declared Misdemeanor

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, unless otherwise provided herein, shall, upon conviction or adjudication of guilty, be punished by a fine of up to \$500.00 or by a jail sentence of up to six (6) months or by both such fine and imprisonment, plus court costs.

Sec. 2-2. Severability

The provisions of this Ordinance are severable so that if any provision hereof is declared unconstitutional, void or invalid by a court of competent jurisdiction, all other provisions hereof shall not be affected by such declaration and shall remain in full force and effect as though the unconstitutional, void or invalid provision had not been included in the Ordinance as originally adopted.

Sec. 2-3 Conflicts with state statutes

This Ordinance shall be deemed cumulative with and supplemental to any and all statutes of the State of Alabama regarding the subject matter hereof and to be subordinate to same and in no manner intended to supersede any such statutes of the State of Alabama. Any provision hereof in conflict with any provision of any State statute shall be construed so as to be in harmony with the same where possible and otherwise to be subordinate to and superseded by the provisions of such State statute.

Sec. 2-4 Effective date

(a) This Ordinance shall be effective June 1, 2010 following its adoption and publication according to law.

(b) The foregoing effective date notwithstanding, this Ordinance shall be of no force or effect if the special referendum election to be held in the City June 1, 2010 should result in the failure to authorize alcohol sales in the City.

ADOPTED and APPROVED this the 24 day of May, 2010.

APPROVED BY:

Ray Alexander, Mayor

ATTEST:
(Seal)

Shirley Gilley, City Clerk