

ORDINANCE NO. 001-2013

AN ORDINANCE REGULATING THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF CORDOVA, ALABAMA; ESTABLISHING LICENSE FEES AND TAXES; PROVIDING LICENSE PROCEDURES; ESTABLISHING PUNISHMENT FOR VIOLATIONS, AND OTHER MATTERS.

WHEREAS, the City of Cordova, Alabama, conducted a municipal option election pursuant to the provisions of ALA. CODE § 28-2A-1, et seq. (2009), on April 30, 2013, whereby a majority of voters favored the legal sale of alcohol within the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cordova, Alabama, sitting in regular session on the 10th day of September, 2013, as follows:

ARTICLE I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE

This ordinance shall be known and may be cited as the "Cordova Alcoholic Beverage Ordinance."

SECTION 2. PURPOSE

This ordinance is enacted for the purposes, among others, of promoting the general health, safety, and welfare of the City, of establishing reasonable standards for the regulation and control of the sale, delivery, and consumption 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, all with the 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 ordinance shall be construed as an exercise by the City of the police power of the state delegated to the City for the regulation of traffic in alcoholic beverages within the City as provided by state law.

SECTION 3. APPLICABILITY

The provisions of this ordinance shall only be in force and effect within the corporate limits of the City of Cordova, Alabama, ("City"), and shall not apply within the police jurisdiction outside the corporate limits of the City.

SECTION 4. DEFINITIONS.

Whenever used in this article, the definitions set forth in ALA. CODE § 28-3-1 (1975) are 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:

(1) Abandonment: The closing of a licensed business for a period of time greater than twelve (12) months, regardless of the purpose, reason, or circumstances.

(2) Alcoholic Beverages: 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 one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

(3) Association: A partnership, limited partnership, limited liability company (LLC) or any other form of unincorporated enterprise.

(4) Beer, or Malt or Brewed Beverages: Any beer, lager beer, ale, porter, malt, or brewed beverage, or similar fermented malt liquor, containing one-half of one percent of alcohol or more by volume and not in excess of six percent by volume, by whatever name the same may be called.

(5) Bartender/server/waiter/waitress: An employee of a retail alcoholic beverage license who is directly involved with the opening, mixing, dispensing, serving, or final sale of alcoholic beverages to a customer of the licensed establishment.

(6) Board: The Alcoholic Beverage Control Board of the State of Alabama.

(7) Bottomless: The state of undress wherein a person is wearing no clothing below the waist, or where a person is exhibiting any portion of the buttocks, anus, rectum, genitalia, or pubic area.

(8) Brewpub: Any premises, as limited by Ala. Code § 28-4A-2 (b) (2) (2011) and Ala. Code § 40-8-1 (1975), upon which beer is actively and continuously manufactured or brewed, subject to the barrel production limitation prescribed in Ala. Code § 28-4A-1, et seq. (2011), for consumption on the premises where manufactured, or for sale to any designated wholesaler licensee for resale to retail licensees.

(9) Business owner: A person or person issued a privilege license by the City to conduct routine business.

(10) Carton: The package or container or containers 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.

(11) Child Care Facility: A 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 care facility" shall also include any day care center licensed by the Alabama Department of Human Resources.

(12) Church: Church shall mean an entire house or structure set apart primarily for use for purposes of public worship, and which 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, not rented or leased, is kept for that use and not put to any other use inconsistent therewith. For the purposes of this chapter, a chapel or any room used for religious purposes and called by a name within a nursing home, retirement home, hospital, medical clinic, funeral home or cemetery shall not be considered a church.

(13) City Alcohol License Fee: A fee charged by the City to a person that has been granted approval by the Board for the privilege of selling alcoholic beverages within the city limits.

(14) Club: A corporation or association organized or formed in good faith by authority of law and which must have at least 50 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like. The club shall hold regular meetings continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

(15) Container: The single bottle, can, keg 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.

(16) Convenience store: 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.

(17) Corporation: A corporation or joint stock association organized under the laws of this state, the United States, or any other state, territory or foreign country, or dependency.

(18) Distributor: Any person or association who directly sells alcoholic beverages to retailers and business owners who are involved in the retail sale of alcoholic beverages.

(19) Engaged in Business: A person shall be deemed to be engaged in business within the City corporate limits if that person has a fixed place of business offering for sale or consumption any alcoholic beverages within the corporate limits, or if pursuant to an agreement of sale, expressed or implied, that person delivers any alcoholic beverage within the corporate limits.

(20) Fixed Place of Business: Any place where any alcoholic beverage is kept or stored for sale or delivery.

(21) Fortified Wine or Vinous Liquor: Any wine containing more than 16.5 percent alcohol by volume but not more than 24 percent. Fortified wine is vinous liquor.

(22) Grocery Store: 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 (10%) of its total gross sales.

(23) Importer: Any person, association or corporation engaged in importing alcoholic beverages, liquor, wine, or beer, manufactured outside of the United States of America into this state or for sale or distribution in this state, or to the board or a licensee of the board.

(24) License: A retail alcoholic beverage license or any other license issued by the Board requiring consent and approval of the city council with the exception of licenses issued by the Board for the sale of beer.

(25) Licensee: Any person licensed by the City or the Board to engage in business involving the sale or delivery of any alcoholic beverage.

(26) Liquor: Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, fermented, vinous or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more by volume, except beer and table wine.

(27) Liquor Store: A liquor store operated by the Board, where alcoholic beverages other than beer are authorized to be sold in unopened containers.

(28) Lounge:

(a) Class I lounge means any place or premises operated by a responsible person of good reputation in which alcoholic beverages of any types may be offered for sale for on-premises consumption and off premises consumption, but which does not meet the requirement for a restaurant-lounge. No provision is made in this ordinance for authorization of a Class I Lounge.

(b) Class II lounge-package store means a class II lounge retail liquor also known as a retail liquor for off-premises consumption license, where licensee who operates the licensed premises for the sale of all classes of alcoholic beverages in the original unopened containers for off-premises consumption only. In addition to meeting all other legal requirements, such licensee must also comply with the ABC code 20-X-5-.13.

A lounge as defined in Ala. Code § 28-3A-11 (1980) shall not be authorized in the City of Cordova.

(29) Manager: 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 designed 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 performances, and employee hiring or discipline.

(30) Manufacturer: Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of alcoholic beverages, liquor, beer or wine in this state or for sale or distribution in this state or to the board or to a licensee of the board.

(31) Meal: 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.

(32) Merchandise Store with Incidental Table Wine Sales: An establishment principally operated for the sale of apparel, home décor, 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 10 % (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 cases, the establishment may also apply for a retail table wine license for on-premises consumption.

(33) Minor: Any person under 21 years of age.

(34) Opened Container: A container containing alcoholic beverages, which has been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

(35) Package Store: Those lounge retail liquor licensees or club liquor retail licensees who declare to the Board that their primary business shall be the sale of alcoholic beverages for off-premises consumption and who further declare their compliance with Regulation 20-X-5-.13 of the Board.

(36) Person: A natural person, association, or corporation, or other legal entity. Whenever used in a provision prescribing a fine or imprisonment, the term "person" such term as applied to "association" shall mean the partners or members thereof. As applied to corporation, the term "person" shall mean the officers thereof, except as to incorporated clubs; the term "person" shall mean such individual(s) who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of alcoholic beverages therein.

(37) Person In Charge (PIC): Each licensee, except a licensed individual who is on the premises, shall have a designated person who is at least 21 years of age present and in actual charge of the business being conducted under the license at any time the licensed establishment is kept open for business, whether or not the privileges of the license are being exercised. The name of the designated person of every retail licensee shall be posted in an area of the establishment, readily available to ABC Board personnel, in letters not less than one inch in size, during the time he or she is in charge.

(38) Privilege License: A privilege license issued by the City of Cordova to a person or persons to conduct routine business.

(39) Privilege License Fee: A fee charged by the City of Cordova to a person or persons that has been granted approval by the Board the privilege of selling alcoholic beverages within the corporate limits of Cordova as herein enumerated and defined.

(40) Public Place: 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, rights-of-way, or parking lots designed for use by the general public, public buildings, buildings which are open to the public including but not limited to school buildings or grounds, parks, libraries, places where school related and recreational games or contests are held, theaters, auditoriums, skating rinks, dance halls or other place of amusement or any club, provided that such terms shall not mean or include premises which have been duly licensed under the ordinances the City and the laws of the state for the sale or consumption of such beverages, and provided further that no private gathering is included within the meaning of the term "public place" with respect to the owners or occupants of such premises, or to any persons invited therein.

(41) Restaurant: A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a selection of food, refreshments, and alcoholic beverages are offered for sale for consumption within the building or adjacent outdoor seating areas. All areas of the restaurant shall comply with any applicable building code occupancy requirements. In order to be deemed a restaurant, the following criteria must be met:

(a) The facility shall have a kitchen in which food is prepared for consumption by the public, which is separate and apart from the dining area, in which the food or meals are served. To meet the definition of "Restaurant," the establishment or facility shall serve at least four meals per week when open for business, which shall be for no less than four (4) days per week, with the exception of holidays, vacations, and periods of repair, maintenance, or improvements. The facility's kitchen shall remain open so that patrons may order food up until one (1) hour before the establishment's closing time.

(b) The facility shall meet the minimum requirements for an *Alabama Alcoholic Beverage Control Board* on-premises license.

(c) The dining area shall have adequate climate control, with the exception of any outdoor seating area(s).

(d) The dining area shall be equipped with tables and chairs accommodating equal to or greater than twenty-five (25) people at one time.

(e) Total dining area of greater than or equal to four hundred (400) square feet.

(f) The serving of food or meals shall constitute the principal business of such establishment, with the serving of alcoholic beverages being only an incidental part of the business, as defined as follows: During any ninety (90) day period, the gross receipts from the serving of meals and food shall constitute at least fifty percent (50%) of the total gross receipts of the business. The licensee shall maintain separate cash register receipts, one for food and one for alcoholic beverages. In addition, the licensee 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 (3) 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, or duly authorized representative, may request.

(42) Retailer: Any person licensed by the board to engage in the retail sale of any alcoholic beverages to the consumer.

(43) Sale or Sell: Any transfer of alcoholic beverages for consideration, and any gift in connection with, or as part of, a transfer or property other than alcoholic beverages for consideration.

(44) School: A public or private elementary, intermediate, middle, junior high or senior high school.

(45) Signage: Sign, symbols, display, lettered board, configuration of neon tubing, glyph, icon, pictogram, pictograph, picture, a written or printed mark that is meant to convey information to the reader, identify or advertise a product.

(46) Specialty Beverage Store. An establishment principally operated for the sale of a diversified selection of both domestic and imported beer and/or wine, but not liquor, in unopened containers for off-site consumption. Such establishments may apply for the following licenses: (i) Retail table wine for off-premises consumption, and (ii) Retail beer license for off-premises consumption.

In addition, the owner of a specialty beverage store may apply with the city for an on-premises beer and wine license for the purpose of offering up to no more than two wine/beer 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, and (ii) Retail beer license for on-premises consumption.

(47) Specialty Wine and Beer Establishment. An establishment principally operated for the sale of a diversified selection of domestic beer, imported beer, domestic wine, and imported wine. Where otherwise permitted by the Board, such establishments must apply and hold the following licenses:

- (a) Retail table wine [license] for off-premises consumption,
- (b) Retail beer license for off-premises consumption,
- (c) Retail table wine license for on-premises consumption, and
- (d) Retail beer license for on-premises consumption.

All sales for off-premises consumption must be in sealed, unopened containers.

A specialty wine and beer establishment must also offer incidental food service, including the sale of food for on-premises consumption and the sale of containerized, gourmet foods for off-premises consumption, but not in such a manner that the establishment will constitute a class I or class II restaurant.

A specialty wine and beer establishment shall offer up to two tasting events per month of their product. With respect to these tastings, no alcohol shall be served free of charge.

For purposes of this section, the phrase "diversified selection" shall mean a selection of no less than 100 different commercially available types of wine (with at least six bottles of each type in stock at the premises), and no less than 30 different commercially available types of beer (with at least one case of each type in stock at the premises).

(48) Table Wine: Any wine containing not more than 16.5 percent alcohol by volume. Table wine is not liquor, spirituous or vinous.

(49) Topless: The state of undress wherein a person is wearing no clothing above the waist, or where a person is exhibiting any portion of the nipple or areola, or where the person is wearing clothing covering, in the case of females, less than twelve square inches of each breast.

(50) Unopened Container: A container containing alcoholic beverages, which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

(51) Wholesaler: Any person licensed by the board to engage in the sale and distribution of alcoholic beverages within this state, at wholesale only, to be sold by export or to retail licensees or other wholesale licensees or other within this state lawfully authorized to sell alcoholic beverages for the purpose of resale only.

(52) Wine: 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 24 percent alcohol by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products, including restored or unrestored pure condensed juice.

ARTICLE II. CONTROL OF ALCOHOLIC BEVERAGES

SECTION 1. LOCATION OF PREMISES NEAR CHURCH, SCHOOL, OR CHILD CARE FACILITY

(1) Subject to the exceptions contained in this section, no facility or establishment shall be authorized to be engaged in business involving alcoholic beverages, pursuant to any category of license, where the building in which the facility or establishment is located is less than 350 feet from any building in which there is located a church, school, or child care facility. This distance restriction shall not apply in the following cases:

(a) Areas located with B-1, B-2 or B-3 Zoning Districts pursuant to the Zoning Ordinance of the City of Cordova, Ordinance 2008-01, as amended.

(b) Where the licensed premises is a grocery store as defined herein.

(2) When measuring from a church, school, or day care facility, the closest point on the exterior wall of the closest building of the church, school, or day care facility to the license applicant shall constitute the beginning point for measurement. When measuring from the license applicant, the closest point on the exterior wall of the building occupied by the applicant shall be used for measurement purposes if the building is occupied solely by the applicant; otherwise, such measurement shall be made from the closest point of the applicant's occupancy within the building in question. The method of measurement is a straight line between these defined points

SECTION 2. MAINTENANCE OF ORDER, REPORT OF VIOLATION.

It shall be the duty of each licensee and of each person-in-charge at any time charged with the management and supervision of any licensed premises, while the same is 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 person in-charge of any licensed premises within the City to immediately make a verbal report to the City Police Department of each incident involving physical harm to a person occurring on the licensed premises while open for business. It shall further be the duty of each licensee to make a written report of each such incident to the Police Department of the City and to the local field office of the Board within thirty-six (36) hours thereof.

SECTION 3. OFFENSES IN PUBLIC.

(1) 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, right-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 library, school building, school athletic contest; provided, that such term shall not mean or include premises which have been duly licensed by the city as provide by the *Code of Alabama*, 1975 and this ordinance.

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

(3) It shall be unlawful for patrons, customers, invitees, or guests to bring alcoholic beverages onto premises licensed to do business by the City of Cordova, whether or not the business is licensed to sell or furnish alcohol.
CROSS REFERENCE: See Section 12, Alcoholic Beverages in Open Containers.

SECTION 4. OFFENSES BY SELLER OR AGENT

(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 alcoholic beverages to any person visibly intoxicated, or to any minor person. The person selling alcoholic beverages shall request a photo-id as proof of age for any person purchasing alcoholic beverages.

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

(3) It shall be unlawful for any person who operates any business licensed to be engaged in the business of alcoholic beverages to allow any such beverages to be sold to any minor person, or to be consumed by any minor person, on the premises where such alcoholic beverages are sold.

SECTION 5. MINORS-OFFENSES GENERALLY.

It shall be unlawful to do or perform any of the acts designated as follows:

(1) For any minor person, directly or indirectly, to purchase any alcoholic beverage, or to attempt to purchase any alcoholic beverage.

(2) For any minor person to possess or to consume any alcoholic beverage, or to attempt to possess or consume any alcoholic beverage.

(3) For any person to sell, furnish, give to, or purchase for any minor person any alcoholic beverage, or to attempt to sell, furnish, give to, or purchase any alcoholic beverage for any minor person.

(4) For any person to hire, employ or permit any minor person 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 combination thereof, and provided there is a person over the age of twenty-one (21) in attendance at all times, Provided further that persons who are nineteen (19) years of age or older working as a waiter, waitress, or server at a restaurant which holds a restaurant retail license may serve alcoholic beverages, provided that the licensee has been annually certified as a responsible vendor under the Alabama Responsible Vendor Act as provided in ALA. CODE §§ 28-10-1 et seq. (1975). Penalties for violation of the provisions of this paragraph shall be as provided by ALA. CODE § 28-1-5 (1975).

(5) For any minor person, directly or indirectly, to falsely represent that he or she is twenty-one (21) years of age or older, by means of which false representation such person buys, receives or otherwise obtains, or attempts to buy, receive, or otherwise obtain any alcoholic beverage.

(6) For any person, directly or indirectly, to falsely represent that a person is twenty-one (21) years of age or older, 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 alcoholic beverage.

SECTION 6. FALSE REPRESENTATION.

It shall be considered a false representation that a minor person is twenty-one (21) years of age or older if the purchaser fails to disclose that the person

making the purchase, obtaining, or securing such alcoholic beverage through the purchase has not reached the age of twenty-one (21) years.

SECTION 7. AUTHORIZED HOURS.

It shall be unlawful for any person, whether an alcoholic beverage 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 alcoholic beverage for off premise (example: convenience/gas stores, package stores, grocery stores, drug stores or any and all other type of retail establishment holding an alcohol license) or on-premise (example: restaurant, lounge, etc.) consumption between the hours of 2:00 a.m. on Sunday morning and 12:00 a.m. Monday morning.

SECTION 8. REGULATION OF CONDUCT.

It shall be unlawful for any person, club, firm or corporation or the officers, members, agents, servants or persons in charge thereof at any club or at any other place to which the general public generally resorts or is admitted, which is a liquor, wine or beer licensed place, or any combination thereof, to permit, allow, conduct or condone any of the following:

- (1) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashiers, 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 breast, 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 breast, 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 customers, members, or guests while so employed and while 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.

SECTION 9. RECORDS; REPORTS.

It shall be the duty of each person subject to the license tax imposed by this ordinance 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 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 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 evidencing 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 (3) years following each calendar year. All such records shall be available for inspection and audit at the licensed premises within the City during regular business hours by the City Clerk, or duly authorized representative, as requested. Failure to keep any of the records required by this

section, or elsewhere in this ordinance, or refusal to make any records available to the City Clerk, or duly authorized representative, shall constitute grounds for revocation of any license issued under this ordinance. Further, an annual report, under oath, shall be filed with the City Clerk, or duly authorized representative, in January each year, showing the purchases of the entire previous calendar year.

SECTION 10. PACKAGING OF BEVERAGES.

Retail licensees for off-premise sale of individual or packages of six (6) 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 license building used for alcoholic beverage sales.

SECTION 11. DELIVERY VEHICLES.

A manufacturer, importer, or wholesaler, servant, agent, or employee of the same, shall deliver all alcoholic beverages in vehicles bearing the required information on each side of the vehicle as required by the Board.

SECTION 12. OPEN CONTAINERS.

It shall be unlawful for any person to:

- (1) Possess or consume any open container containing alcoholic beverages while upon or along any public place, street, road or highway in the City, except when approved by the city council for special events.
- (2) Possess or consume any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, school, stadium, or school recreational facility.
- (3) Possess or consume any alcoholic beverage in an open glass, bottle, cup, can, keg, bag or other receptacle not its original container 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.

SECTION 13. 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.

ARTICLE III. LICENSES

SECTION 1. ALCOHOL LICENSE TAX BOND

(1) 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 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 engaged 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.

(2) 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. 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, or his or her 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 CORDOVA

ALCOHOL ORDINANCE TAX OR FEE BOND

That _____, hereinafter called Principal, and _____, as Surety, are held and firmly bound unto the City of Cordova, 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 any 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 Cordova, 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. 01-19-2010, or any amendment thereto, and any other amount which may become due to the City of Cordova, 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 Cordova now in force, or that may hereafter be adopted, and will promptly pay to said City of Cordova, 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 Cordova, or his or her designated representative. This notice shall provide for 30 days' notice to the City of Cordova 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 Cordova, Alabama on this the _____ day of _____, 20____.

Principal

By _____

SEAL

Surety

By _____

Title

SECTION 2. REQUIRED; TRANSFER; SUSPENSION; DISPLAY.

(1) It shall be unlawful for any person to have in such person's possession any alcoholic beverage with the City for the purpose of sale, storage, or delivery without having first procured from the City a privilege license and from the Board a license entitling the applicant to engage in the alcoholic beverage transactions authorized thereby. Licenses issued under this ordinance may not be assigned or transferred. The City is hereby authorized to allow the address for the privileged licensed premises to be changed from one place to another within the City, as the City may determine appropriate, but shall not allow the transaction of business at a place for which the license could not originally have been issued lawfully.

(2) In the event of a change of ownership of a licensed establishment, the current licensee shall be required to file a written statement of intent with the City Clerk prior to either completing the sale of the licensed business, or relinquishing management or financial control of the business operation, whichever occurs first; and additionally, the party to whom the licensed establishment is to be sold must file with the City a completed application for a City license within twenty (20) days of notification to the City of the intent to sell, transfer, or assign the establishment. Upon request of the City Clerk, or designated representative, any applicant may be requested to produce records of the business or the transaction surrounding the sale of the business. These records include, but are not limited to, lease agreements, land sale agreements, bank statements, stock transfers, minutes of corporate board meetings, bills of sale, 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 result in immediate forfeiture of the City license upon notification of this determination and an opportunity for a public hearing by the City Council as provided in Section 5 of this Article.

(3) Licenses issued by the City shall be deemed to terminate, by operation of law, when there is a 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 or parties. 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 thirty (30) days if said applicant is in compliance with subparagraph (2) 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 a license is issued by the City in the new licensee's name.

(4) Upon the temporary closing of the licensed establishment for a period in excess of thirty (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. In the event that the establishment remains closed for twelve (12) months or greater, for any purpose, the license shall be deemed terminated by operation of law.

(5) For the purposes of this section, the sale or transfer of twenty-five percent (25%) or more of a corporation's stock or interest in the business shall constitute a change in ownership of the licensed establishment.

(6) The City shall have the right to revoke any privilege license issued by the City for any violation of this chapter or the regulations of the Board, after notice and opportunity for a hearing before the City Council in accordance with the provisions of Section 5 of this Article.

(7) Every privilege license issued by the City to conduct normal and routine business and every license issued by the Board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the licensed premises.

(8) Each business that changes its name shall provide to the City Clerk the new information within 30 days of the name change.

SECTION 3. APPLICATION FOR LICENSE; PAYMENT.

(1) Each applicant seeking the consent and approval of the City Council for lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license or other license issued by the Board shall make application to the city council as required by this article. Said application shall be upon an appropriate form supplied by the city clerk, 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.

(2) The Municipal License Application form, as provided by the City and shall be signed and verified by oath or affirmation by the owner, if a natural person, or in the case of a partnership, association, limited liability company, or unincorporated enterprise, by a partner or member thereof, or in the case of a corporation, by an executive officer thereof, and the form shall request the following information and statements:

(a) The name and residence of the applicant and how long he or she has resided in the indicated place, and if a

partnership, association, limited liability company, unincorporated enterprise, or corporation the names and residence address of the partners, members, officers and directors, and how long each of such persons has resided at the indicated place.

(b) A description of the particular place for which the license is desired, which shall include the E911 address and legal description to the real property, and a description or plan of that part of the lounge where it is proposed to keep and sell liquor.

(c) Place of birth of applicant, and, if a limited liability company or corporation, when and where formed or incorporated, and if not incorporated in the State of Alabama, then whether or not it is duly qualified under the laws of the State of Alabama to do business in Alabama. If a corporation, the application shall also contain a statement that all officers and directors of the corporation are reputable individuals.

(d) The name(s) and address(es) of the owner or owners of the premises upon which the business is to be constructed, together with the names and addresses of all lessees and sublessees. A copy of any lease agreement under which the applicant has the right of possession, if the applicant is not the owner of the property, shall be filed as an attachment to the application. The certification of said application shall include the certification of said lease agreement; provided, however, that the amount of monthly rental or other compensation to be paid by the lessee under said lease may be struck out on said attached copy.

(e) That the applicant is not, or in the case of a partnership, limited liability company, or unincorporated enterprise, that the partners or members are not, and in the case of a corporation that the officers and directors are not, in any manner pecuniarily interested either directly or indirectly in the profits in any other class of business regulated under this article and/or the Alcoholic Beverage Licensing Code of the State of Alabama, or if so interested, the extent of said interest, including name of such business must be stated.

(f) That applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed, except as stated, and that no other person shall be in any manner pecuniarily interested therein during the continuance of the license.

(g) Whether applicant, or in the case of a partnership, association, limited liability company, or unincorporated enterprise,

any partner or member thereof, or in case of a corporation, any officer, director or stockholder thereof, has, during the three (3) years immediately preceding the date of said application, had a license for the sale of spirituous or vinous liquors, fortified wine or table wine, or malt or brewed beverages, revoked or suspended by any governmental authority.

(h) A statement whether applicant has made application heretofore for a similar or other liquor license, and the disposition of such application.

(i) A statement showing the criminal records of the applicant, each partner, member, officer, member of board of directors, landlord, and manager for the past preceding five (5) years, and shall include every violation charged irrespective of disposition of each charge. Minor traffic offenses may be omitted; however, driving while intoxicated and reckless driving cases must be shown.

(j) Each applicant for a club retail liquor license shall also file with, and as a part of, the application the following:

1. A certified copy of the certificate of incorporation, and of the constitution and bylaws of such club.
2. A verified list of the paid-up members of such club at the time of the application, together with the resident address of each such paid-up member.
3. The name and residence address of the manager of the club. If the person shown as manager of the club ceases to be such manager, then the club shall notify the clerk within five (5) days of such change, together with the names and resident address of any new manager.
4. A copy of any certificate from the Internal Revenue Service or Treasury Department concerning any exemption of the club from taxation.

(k) Written evidence that applicant has obtained all required permits from the Walker County Department of Public Health and has fully met with the requirements of the fire prevention codes and ordinances of the city and of the laws of the State of Alabama.

(l) Written evidence, of the type and substance required by the Alabama Alcoholic Beverage Control Board and the Alabama Code and ABC Board Regulations, of the applicant's compliance with the Alabama Requirements of Financial Responsibility by Licensees, which requirements mandate that the applicant have a sufficient net worth or, in the alternative, a sufficient policy of liability insurance to comply with said regulations as the same are in effect as of the date of the application.

SECTION 4. REVIEW OF APPLICATIONS.

(1) The Board application shall be forwarded to the City Clerk, or designated representative from the Board Field Office.

(2) Said application for license shall be delivered to the city clerk who shall immediately thereafter deliver the same to the chief of police of the city, who shall conduct an investigation and inquire into all matters and things contained in the application and then submit said application, together with the results of his or her investigation, and his or her recommendation thereon, back to the city clerk who shall, in turn, submit same to the city council. The chief of police shall have ten (10) days to complete said investigation, unless time is extended by the city council.

(3) The City Clerk shall cause notice to be published in a newspaper of general circulation published in the county as herein provided.

(4) The City Clerk, or designated representative, shall be responsible for ensuring that applicable written approvals from City departments are included as a part of the application indicating compliance, or lack thereof, with the applicable requirements of each respective department. It will then be presented to the city council.

(5) The City Clerk shall present the application at the next meeting of the city council. An application shall not be finally approved or denied until the next following regular meeting of the city council; however any application may be held under advisement for a longer period. No initial application shall be approved except by the city council in a regular meeting, and the city council may in such regular meeting direct that any renewal application, specifying the particular application, be withheld.

(6) Subsequent to the City Council approval and the applicant's compliance with subsection (3) of this section, the City Clerk, 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 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 Board Field Office supervisor responsible for Walker. County.

(7) Upon notification of Board approval of the applicant for a State license then the City of Cordova shall issue a City license to the application after receiving the appropriate license fee.

SECTION 5. PUBLIC NOTICE

Upon receipt of an application, together with the results of the investigation and recommendations made thereon, if any be required, and deposit with the city clerk the amount of publication cost to be incurred hereinafter, the city clerk shall cause notice to be published two (2) times 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 said notice must be published as aforesaid two (2) times at least six (6) 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 such time and place all persons residing, having a business, or owning real property within one thousand (1,000) feet of the proposed establishment measured from the building of the establishment to the building of the residence or in the case of an unimproved lot from the center of the front footage thereof to the nearest point of the proposed establishment for which a license is sought, shall have an opportunity of being heard in opposition to or in favor of the application. The notice shall contain the common E911 address and legal description of the proposed establishment. Such publication shall be at the applicant's expense.

SECTION 6. CONSIDERATION OF APPLICATION; REVOCATION

(1) In rendering a decision on each application for a license under this chapter, the City Council may consider, among others, the following factors:

(a) The effects upon residents, real property owners and businesses within 300 (three hundred) feet of the location for which a license is sought.

(b) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.

(c) The criminal records of the applicant, each partner, member officer, member of board of directors, landlord, bartender and manager.

(d) The location of the premises for which a license is sought and the number of establishments presently holding

licenses within 300 (three hundred) feet of the location for which the license is sought.

(e) Compliance by the applicant each partner, member, officer, member of board of directors, landlord, bartender and manager with the laws of the state and ordinances of the City.

(f) Any other information deemed by the City Council to be relevant to the public health, safety, and welfare of the City of Cordova.

(2) In its sole discretion, the City may reconsider the issuance of any license, provided that seven (7) days notice is given to the licensee and a public hearing is conducted by the City Council. At such hearing, the City Council may consider any of the factors provided in paragraph (1) of this section, regardless of whether such information arose before or after the issuance of the license. The City may revoke any license, in its discretion, if it finds that continued authority for the licensee to conduct business in alcoholic beverages is not in the interests of the City health, safety, or welfare.

(3) Any determination by the Board to suspend or revoke a license issued by the Board shall be recognized and given full force and effect by the City such that any license granted by the City permitting the licensee to engage in the same conduct or business shall thereby be suspended or revoked, as the case may be, effective simultaneously with the Board's decision.

SECTION 7. 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 \$500.00, and the city clerk 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, provided, however, that the filing fee for a special events license application shall be \$75.00.

SECTION 8. LICENSE FEES AND TAXES.

(1) Each person licensed by the Board who shall engage in alcoholic beverage, liquor, beer or wine business within the City 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:

(a) Manufacturer License. Each person who has obtained a manufacturer license from the Board pursuant to ALA. CODE § 28-3A-6 (1975) shall pay to the City an annual privilege license fee of \$500.00.

(b) Importer License. Each person who has obtained an importer license from the Board pursuant to ALA. CODE § 28-3A-7, et seq. (1975) shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state importer license by the State of Alabama.

(c) Liquor Wholesale License. Each person who has obtained a liquor wholesale license from the Board pursuant to ALA. CODE § 28-3A-8 (1975) shall pay to the City an annual privilege license fee of \$750.00.

(d) Wholesaler License for Beer or Table Wine. Each person licensed as a beer wholesaler pursuant to ALA. CODE Section 28-3A-9 shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state beer and wine license by the State of Alabama. 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 the "Alabama Beer Tax Act", ALA. CODE §§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 and/or distributors will not sell to any retail outlet that does not have a current City license.

(e) Warehouse License. Each person licensed by the Board to receive, store or warehouse alcoholic beverages within the State of Alabama pursuant to ALA. CODE § 28-3A-10 (1975) for transshipment inside and outside the state shall pay to the City an annual privilege license fee of \$500.00.

(f) Lounge Retail Liquor License. Class I Lounges shall be precluded in the City of Cordova.

(g) Retail Liquor for Off-Premises Consumption. Each person licensed by the Board to operate a retail lounge also known as a class II lounge pursuant to ALA. CODE § 28-3A-11 (1975) shall pay to the city an annual license fee of \$2,000.00. In addition to said state 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 10 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.

(h) Club Retail Liquor License. Each person licensed by the Board to operate a Club, pursuant to ALA. CODE § 28-3A-12 (1975) shall pay to the City an annual license fee of \$2,000 for a club. In addition to such license fee, each such licensee shall pay to the City, on or before the fifteenth (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 10 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.

(i) Restaurant Retail Liquor License. Each person licensed by the Board to sell alcoholic beverages in connection with the operation of a restaurant pursuant to ALA. CODE § 28-3A-13 (1975) shall pay to the City an annual privilege license fee of \$1500.00. In addition to such license fee, each such licensee 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 10 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.

(j) Retail Table Wine License for On-premises and Off-premises Consumption. Each person licensed by the Board to sell table wine at retail for on-premises and off-premises consumption pursuant to ALA. CODE § 28-3A-14 (1975) shall pay to the City an annual license fee of fifty percent (50%) the amount charged for state wine license by the State of Alabama.. Unless such person shall have paid for an on-premises liquor license.

(k) Retail Table Wine License for Off-premises Consumption. Each person licensed by the Board to sell table wine for off-premises consumption pursuant to ALA. CODE § 28-3A-15 (1975) shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine license by the State of Alabama.

(l) Retail Beer License for On-premises and Off-premises Consumption. Each person licensed by the Board to sell beer for on-premises and off-premises consumption pursuant to

ALA. CODE § 28-3A-16 (1975) shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state beer license by the State of Alabama..

(m) Retail Beer License for Off-premises Consumption. Each person licensed by the Board to sell beer at retail for off-premises consumption pursuant to ALA. CODE § 28-3A-17 (1975) shall pay to the City an annual license fee of fifty percent (50%) the amount charged for state beer license by the State of Alabama..

(n) Special Retail License. Each person who has obtained a special retail license from the Board pursuant to ALA. CODE § 28-3A-19 (1975) shall pay to the City a privilege license fee of \$250.00 when the period of use is thirty (30) days or less. Such person shall pay to the City a privilege license fee of \$350.00 when the period of use is more than thirty (30) days, but in no event shall the duration of the license exceed one year. Further, the terms of such license shall not exceed or conflict with the license issued by the Board. These privilege license fees shall be due for every license issued under this subsection, not on an annual basis. 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 10 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.

(o) Special Events Retail License. Each person who has been recommended by the city and obtained a special events retail license from the Board pursuant to ALA. CODE § 28-3A-20 (1975) shall pay to the City a license fee of \$200.00. No such license shall be issued for a period in excess of seven (7) days. Such alcoholic beverages as are authorized by the Board may be sold. All applications for special events retail licenses shall be filed with the City Clerk 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 10 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. Hereunto, shall apply to applicant for a special event retail liquor license.

1. Submit the required filing fee (\$75.00).
2. Receive approval from the city council.
3. Receive license from state alcoholic beverage control board.
4. Pay the required license fee (\$200.00).
5. Each applicant/organization shall not be allowed to apply for more than five special event licenses in any one calendar year.
6. No sale of alcohol is to be sold during a special event on any Sunday after 2:00 a.m.
7. Shall be required to purchase the alcoholic beverages from a wholesale licensee of the Board.

(i) Brewpub. Each person licensed by the Board to sell alcoholic beverages in connection with the operation of a restaurant pursuant to ALA. CODE § 28-4A-1, et seq. (2011) shall pay to the City an annual privilege license fee of \$1500.00. In addition to such license fee, each such licensee 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 10 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.

(2) The term "gross receipts" as used in Subsection (1) of 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.

(3) The stated annual license fee levied by the schedule under the foregoing provisions shall be due October 1 of each year and shall be delinquent after October 31 of the year for which such license is due, and a penalty of ten percent of the license amount shall be collected during November - December; 20 percent during January - March; 30 percent during April - June; and 40 percent during July – September. 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 licenses 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.

(4) 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; with interest, penalty, and citation fee must be paid by such person.

SECTION 9. REPORTS OF BUSINESS DONE AND TAX DUE.

Each licensee shall file with the City Clerk a report in such form as the City Clerk may prescribe on or before the final date on which the tax may be paid without a penalty 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 considered a violation of this ordinance, and penalties, interest, and fees shall be due and payable as provided in this Article.

SECTION 10. ALABAMA RESPONSIBLE VENDOR ACT.

ALA. CODE §§ 28-10-1 through 28-10-8 (1975) are hereby adopted by reference, and made a part hereof as if fully set forth herein.

(1) Each licensee of the City shall obtain Certification through the Alabama Responsible Vendor Program within thirty (30) days of license approval by the Board.

(2) Upon losing certification through the Alabama Responsible Vendor Program, the City privilege license shall be suspended until such time as the licensee achieves re-certification or the license expires or is terminated as otherwise provided herein, whichever shall occur first.

ARTICLE IV. ALCOHOL REVENUES

SECTION 1. SOURCE OF FUNDS

All funds received by and payable to the city that are derived from the following sources are hereby appropriated and allocated as described section 2 of this article.

(1) ABC store sales taxes;

- (2) ABC store profitability share;
- (3) All taxes on liquor, wine, and/or beer collected pursuant to the Code of Alabama, 1975; and
- (4) Any and all fees set forth in Article III, which shall include but not be limited to the following:
 - (a) Annual manufacturer license fee of \$500 provided for in Article III Section 1 (a).
 - (b) Annual importer license fee of \$500 provided for in Article III Section 1 (b).
 - (c) Annual liquor wholesale license fee of \$750 provided for in Article III Section 1 (c).
 - (d) Annual wholesale license fee for beer and table wine as provided for in Article III Section 1 (d).
 - (e) Annual warehouse license fee of \$500 provided for in Article III Section 1 (e).
 - (f) There shall be no provision for Class I lounge retail liquor license as these establishments shall not be authorized in the City of Cordova.
 - (g) Annual retail liquor for off-premises consumption license fee of \$2,000 provided for in Article III Section 1 (g).
 - (h) Annual club retail liquor license fee of \$1,500 for class I and \$2,000 for class II provided for in Article III Section 1 (h).
 - (i) Annual restaurant retail liquor license fee of \$1,500 provided for in Article III Section 1 (i).
 - (j) Annual retail table wine license for on-premises and off-premises consumption fee as provided for in Article III Section 1 (j).
 - (k) Annual retail table wine license for off-premises consumption fee as provided for in Article III Section 1 (k).
 - (l) Annual retail beer license for on-premises and off-premises consumption fee as provided for in Article III Section 1 (l).

(m) Annual retail beer license for off-premises consumption fee as provided for in Article III Section 1 (m).

(n) A special retail license fee of \$250/\$350 provided for in Article III Section 1 (n).

(o) Annual special events retail license fee of \$200 provided for in Article III Section 1 (o).

(p) Annual brewpub license fee of \$1,500 provided for in Article III Section 1 (p).

SECTION 2. ALLOCATION OF FUNDS

The funds identified in Section 1 of this article are hereby allocated as follows:

(1) One hundred percent of said funds attributable to each month shall be deposited in the special alcohol account of the city, to be appropriated and expended in lawful manner at the direction of the city council.

ARTICLE V. MISCELLANEOUS PROVISIONS

SECTION 1. VIOLATIONS DECLARED MISDEMEANOR.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, unless otherwise provided herein, upon conviction or adjudication of guilt shall be sentenced to a fine not to exceed five hundred dollars (\$500.00) and/or incarceration for a period not to exceed six (6) months.

SECTION 2. INSPECTION

(1) It shall be unlawful for any licensee to refuse the City or any of its authorized employees the right to completely inspect the entire licensed premises at any time during which the premises are open for the transaction of business.

(2) Any licensees upon the request of the city clerk or his or her designee shall present all requested records for inspection at the Cordova City Hall upon the providing of reasonable notice. Reasonable notice shall be not less than fourteen (14) days.

SECTION 3. SIGNAGE

(1) Signage on the exterior of licensed premises or visible from the outside of a licensed premises for the purpose of advertising alcoholic beverages shall be prohibited in all areas of the City of Cordova.

(2) Signage on the interior of licensed premises for the purpose of advertising alcoholic beverages shall be prohibited in B1 Zones as defined in the Zoning Ordinance of the City of Cordova, Ordinance 2008-01, as amended.

SECTION 4. RESTRICTED AREAS IN B1 ZONES

(1) Licensed premises located in B1 Zones as defined in the Zoning Ordinance of the City of Cordova, Ordinance 2008-01, as amended, shall isolate alcoholic beverages by wall, partition or other means from the other retail space of the business. It is not a requirement of this section that the wall or partition contain a door, however, the entrance into the area where alcoholic beverages are stocked shall be narrowed and posted with signs directing that no individual under the age of 21 shall be allowed in to this area of the licensed premises.

(2) Individuals under the age of 21 found in violation of this ordinance shall be subject to a fine not to exceed \$500 and store managers on duty at the time of a violation of this section where an under aged individual is found in the area containing alcoholic beverages shall be subject to not more than 6 months in jail and a fine not to exceed \$500.

SECTION 5. SEVERABILITY.

The provisions of this ordinance are severable. If any part or provision hereof is declared unconstitutional, void, or invalid by a court of competent jurisdiction, all other parts and 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.

SECTION 6. CONFLICTS WITH STATE STATUTES AND REGULATIONS.

This ordinance shall be deemed cumulative with and supplemental to any and all statutes and regulations of any administrative body 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 or regulations of the State of Alabama. Any provision hereof in conflict with any provision of any state statute or regulation shall be construed so as to be in harmony with the same where possible, and otherwise to be superseded by the provisions of such state statute.

SECTION 7. CONFLICT WITH ORDINANCES OF THE CITY.

This ordinance shall be deemed cumulative with any other ordinance of the City and shall be read in pari material. In the event of a conflict between ordinances of the City the provisions of this ordinance shall supersede prior ordinances of the City.

SECTION 8. POLICY AND PROCEDURES.

Policies and/or procedures may be adopted to aid in the administration of the provisions of this ordinance, although they shall not in any event conflict with the provisions of this ordinance.

SECTION 9. EFFECTIVE DATE.

This ordinance shall be effective immediately upon its adoption, approval and publication according to law.

ADOPTED sitting in regular session this 10th day of September, 2013.



Drew Gilbert
Mayor
City of Cordova, Alabama

ATTEST:



City Clerk

APPROVED this the 10th day of September, 2013.



Drew Gilbert
Mayor
City of Cordova, Alabama