

**ALCOHOLIC BEVERAGE AND BEER ORDINANCE
ORDINANCE NUMBER 358**

AN ORDINANCE ADOPTING PROPER RULES AND REGULATIONS AS TO THE TRANSPORTATION, STORAGE, SALE, DISTRIBUTION, POSSESSION, RECEIPT, AND/OR MANUFACTURE OF ANY ALCOHOLIC BEVERAGE AND BEER OF AN ALCOHOL CONTENT AS DEFINED IN SECTION 67-1-5(a) OF THE MISSISSIPPI CODE OF 1972, ANNOTATED, AS AMENDED, IN THE CITY OF LOUISVILLE, WINSTON COUNTY, MISSISSIPPI

WHEREAS, by an election held in Winston County, Mississippi, on the 8th day of November, 1988, under the provisions of Section 67-3-7, Mississippi Code of 1972, as amended, the results of which were accepted, ratified, and approved by the Board of Supervisors of the County of Winston on the 9th day of November, 1988, the transportation, storage, sale, distribution, receipt, possession and/or manufacture of any alcoholic beverage and beer of an alcoholic content as defined in Section 67-1-5(a) of the Mississippi Code of 1972, Annotated, as amended, was made lawful and permitted in the said corporate limits of The City of Louisville, Winston County, Mississippi; and

WHEREAS, by an election held in Winston County, Mississippi, on the 8th day of November, 2011, under the provisions of Section 67-1-11, Mississippi Code of 1972, Annotated, as amended, the results of which were accepted, ratified, and approved by the Board of Supervisors of the County of Winston on the 21st day of November, 2011, the manufacturing, distilling, brewing, sell, possession, importing, exporting, transportation, storage, soliciting, taking order for, bottling, rectifying, blending, treating, mixing or possession of any alcoholic beverage as defined by Section 67-1-5(a) of the Mississippi Code of 1972, Annotated, as amended, was made lawful and permitted in the said corporate limits of The City of Louisville, Winston County, Mississippi; and

WHEREAS, this Board is authorized under the provisions of Section 67-3-65, Mississippi Code of 1972, as amended, and under its general police powers, to prescribe and enforce reasonable and proper rules and regulations to control the transportation, storage, sale, distribution, possession, receipt and/or manufacture of any alcoholic beverage and beer of an alcoholic content as defined in Section 67-1-5(a) of the Mississippi Code of 1972, Annotated, as amended, as well as to set zones and territories, to prescribe the hours of opening and closing of establishments licensed pursuant to this Ordinance, to regulate the advertising and the display of such any alcoholic beverage and beer, and to establish such other measures as will promote the public health, safety, morals, and general welfare of the citizens of the said City of Louisville, as this Board may order to be applicable to the territory inside the municipal corporate limits of the said City of Louisville, Winston County, Mississippi.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMAN OF THE CITY OF LOUISVILLE, WINSTON COUNTY, MISSISSIPPI, AS FOLLOWS, TO-WIT:

SECTION 1. When used herein the words and terms "alcoholic beverage", "alcohol", "distilled spirit", "wine", "person", "manufacturer", "wholesaler", "retailer", "commissioner", "division", "municipality", "hotel", "restaurant", "club", "qualified resort area", "native wine", "native winery", and "bed and breakfast inn" shall have the definition as defined and described in Section 67-1-5, of the Mississippi Code of 1972, Annotated, as amended, which said definition as contained in said section of said act are hereby adopted for the purpose of this Ordinance.

SECTION 2. When used herein the words and terms "commissioner", and "beer" shall have the definitions as defined and described in Section 67-3-3, of the Mississippi Code of 1972, Annotated, as amended, which said definitions as contained in said section of said act are hereby adopted for the purpose of this Ordinance.

SECTION 3. It shall be unlawful for any individual, partnership, association, corporation or business entity of any description or nature whatsoever, to sell, to offer for sale, or to have in possession for the purposes of sale, any alcoholic beverage and beer as regulated by this Ordinance without having first obtained a valid Privilege License from The City of Louisville, Winston County, Mississippi, authorizing the sale of any alcoholic beverage and beer as contemplated herein. Any violation of a section of this Ordinance shall be considered a misdemeanor and upon conviction for the violation of such Section, the said offender shall be punished in accordance with the provisions of Section 23 of this Ordinance, and further that should a license holder be convicted hereunder, upon notice of said conviction the Privilege License issued pursuant to this Ordinance may be administratively suspended or revoked in accordance with Section 24 of this Ordinance.

SECTION 4. No business or entity shall be licensed under this Ordinance where any alcoholic beverage and beer is only to be sold and not consumed on the premises unless seventy-five percent (75%) of the gross sales of said business or entity per calendar quarter is derived from the sale of food for human consumption or food related products. No sale of any alcoholic beverage and beer will be permitted in any service station, department store, warehouse, drugstore, or convenience store, or any other type of establishment unless said business or entity also stocks food for sale for human consumption or related products and meets the seventy-five percent (75%) gross sales provisions as stated above. The gross sale of any alcoholic beverage and beer will not be included in determining the seventy-five percent (75%) quota.

Documentation of compliance with food sales may be requested as often as monthly by issuing authority for the calendar quarter immediately proceeding the date of request and must be provided by the individual or business within five (5) working days of such request.

SECTION 5. The opening of a container of any alcoholic beverage and beer, and the consumption of such any alcoholic beverage and beer on the premises of a holder of a Privilege License authorizing the sale of such beverage, or the permitting of either to be done on such premises by the holder of such Privilege License, be and the same is, hereby prohibited except:

A. On the premises of a restaurant holding a Privilege License authorizing sale of such beverage; the word "restaurant" for the purpose of this order meaning a place which is regularly and in a bona fide manner used and kept open for the service of meals to guests for compensation and which has suitable seating facilities for guests and has suitable kitchen facilities connected therewith for cooking an assortment of foods commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement; no place shall qualify as a restaurant under the provisions of this order unless seventy-five percent (75%) or more of the revenue derived from such place per calendar quarter shall be for the preparation, cooking, and serving for meals, and not for the sale of any alcoholic beverage and beer.

Documentation of compliance with food sales may be requested as often as monthly by the issuing authority for the calendar quarter immediately proceeding

the date of request and must be provided by the individual or business licensed within five (5) working days of such request.

B. On the premises of a club holding a permit authorizing the sale of any alcoholic beverage and such light wine or beer, the word "club" for the purpose of this Ordinance meaning an association or a corporation organized or created under the laws of the State of Mississippi, organized for the promotion of some common object other than the sale or consumption of light wine or beer, maintained by its members through payment of annual dues, having a minimum of one hundred (100) members, assets of at least seventy-five thousand dollars (\$75,000.00) true market value of real and personal property appraised on the municipal tax rolls, and have \$500,000.00 worth of liability insurance. The sale of light wine or beer shall be limited to members and guests who are twenty-one (21) years of age or older. That the affairs and management of such clubs must be conducted by a Board of Directors, Board of Governors, executive committee or similar governing body chosen by the members at regular meetings at periodic intervals, and that no member, officer, agent, or employee of the club is paid, or directly or indirectly receives in the form of a salary or other compensation any profit from the distribution of sale of such light wine or beer to the club or to the members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the Board of Directors or other governing body out of the general revenues of said clubs.

SECTION 6. The erecting and maintaining of any sign, lighted or otherwise, or printing upon the outside of the premises covered by a Privilege License, advertising, announcing or advising of the sale of any alcoholic beverage and beer shall be, and the same hereby is, prohibited. The words "alcoholic beverage", "liquor", or "beer" need not appear in said advertisement if the common connotation of said advertisement would reasonably be construed to advertise the beverage. All inside advertising visible from outside premises is prohibited.

SECTION 7. The storing and keeping of containers of any alcoholic beverage and beer in or on the premises covered by such Privilege License in such a manner as to be visible from the streets or highway or otherwise from the outside of said premises shall be, and the same hereby is, prohibited.

SECTION 8. The advertising of any alcoholic beverage and beer by means of signs or displays on and along public road, highway, street, or on any building in said municipal limits shall be, and the same hereby is, prohibited. All inside advertising visible from outside premises is prohibited.

SECTION 9. No alcoholic beverage and beer regulated pursuant to this Ordinance shall be sold, given, dispensed, or permitted to be consumed in or upon a licensed premises during the days Monday through Saturday between the hours of midnight and 7:00 A.M. the following morning, or on Sundays. Restaurants shall not allow any alcoholic beverage and beer regulated pursuant to the Ordinance to be sold, given, dispensed, or permitted to be consumed in or upon a licensed premises during the days Monday through Saturday between the hours of 10:30 P.M. and 7:00 A.M. the following morning, or on Sunday.

SECTION 10. It shall be unlawful for any business or entity where any alcoholic beverage and beer is sold and not consumed on the premises licensed pursuant to this Ordinance to sell, give, or dispense beer in a quantity less than a six pack or quart bottle or their metric equivalent. It is expressly permitted by this Ordinance to sell wine of not more than five percent (5%) by weight in four packs or quarts. It shall further be unlawful for a restaurant having valid on-premises retailer's Privilege License pursuant to this Ordinance to sell any

alcoholic beverage and beer which is not consumed on the premises of said restaurant, it being unlawful for any patron or operator of the licensed establishment to allow said any alcoholic beverage and beer to be removed from the premises in any type of container.

SECTION 11. The sale of any alcoholic beverage and beer is forbidden on the outside premises of all drive-in restaurants, eating establishments that have curbside service, or any drive-in or drive-through businesses or entities which do not require a purchaser to leave his vehicle to make a purchase of said any alcoholic beverage and beer. The sale of any alcoholic beverage and beer on the inside premises of said business is lawful.

SECTION 12. All restaurants, as hereinbefore defined, holding a valid on-premises retailer's Privilege License shall have adequate seating facilities for their customers and shall under no circumstances sell any alcoholic beverage and beer unless the person or persons ordering the said beer are seated. All restaurants, as hereinbefore defined, shall have adequate sanitary facilities and restroom. All restaurants, as hereinbefore defined, shall have approved fire exits and current and adequate extinguishers for the premises.

SECTION 13. No alcoholic beverage and beer shall be consumed in or on any public area or private area owned by one duly licensed herein on which the public is invited, except the licensed premises, said premises to include the interior of the building in which beer is dispensed for consumption and not to include any adjacent exterior property such as sidewalks, parking lots, etc.

SECTION 14. It shall further be unlawful for anyone to have any open container of any alcoholic beverage and beer in any motor vehicle while using public streets of the City of Louisville either as the operator of a motor vehicle or as a passenger therein.

SECTION 15. It shall be unlawful for any person to have in his possession or to consume any alcoholic beverage and beer in the City Hall, municipal buildings, public school buildings, stadiums, any public playgrounds or public parks or clubhouses situated therein, or any fire station, or any other public grounds, buildings, parts and places owned, maintained and operated directly by the city.

SECTION 16. No person shall sell, give, or furnish in any manner and any alcoholic beverage and beer at any time or place to any person under twenty-one (21) years of age, or to knowingly sell, furnish, or give the same to any person for delivery to such persons.

SECTION 17. No alcoholic beverages shall be sold or consumed within four hundred (400) feet of any church, school, hospital, funeral home, nursery, nursing home, day-care center, kindergarten, or publicly-owned recreation center, except on the premises of those businesses which are in operation and doing business on the date of this ordinance, however, consumption of any alcoholic beverage and beer in the privacy of one's own home is not to be construed as falling under this provision. Any business which ceases to do business with the public for a period exceeding ninety (90) days will be considered to be a new business and not in business as of the date of the adoption of said ordinance.

Further, in construing this provision, the measurements of distances set out herein shall be made from the center of the main entrance of a church, school, hospital, funeral home, nursery, nursing home, day care center, kindergarten, or publicly-owned recreation center of the main entrance on the building wherein any alcoholic beverage and beer regulated hereunder is being sold or consumed, the said

measurement being made in a straight line from the center of the main entrance on said buildings.

SECTION 18. No alcoholic beverages shall be sold on City property.

SECTION 19. No business or entity licensed pursuant to this Ordinance and possessing a valid on premises retailer's Privilege License and where any alcoholic beverage and beer is sold for consumption on the premises shall employ in any capacity in connection with the selling, dispensing, serving, packaging, transporting, stocking, or other related activities in regard to the sell of any alcoholic beverage and beer and light wines any person under the age of eighteen (18) years unless supervised by someone twenty-one (21) years of age or older. No business or entity licensed pursuant to this ordinance and possessing a valid on premises retailer's Privilege License and where any alcoholic beverage and beer sold not for on-premises consumption shall employ in any connection with the selling, dispensing, serving, packaging, transporting, stocking, or other related activities in regard to the sell of any alcoholic beverage and beer and light wine any person under the age of eighteen (18) years unless supervised by someone twenty-one (21) years of age or older.

SECTION 20. It shall be unlawful for any business or entity licensed pursuant to this Ordinance to employ any persons who have been convicted of any felony, or who have been convicted of any violation of any state or federal law relating to beer or alcoholic beverages, including wines, within two (2) years prior to such employment.

SECTION 21. In the event of any disturbance, uprising, or riot, or any other emergency threatening life, property, or public safety, the Mayor may require the Chief of Police to promptly order any and all licensed places in the City where any alcoholic beverage and beer is consumed, sold, or otherwise dispensed to discontinue the sale of said alcoholic beverage and beer for the period of such emergency.

SECTION 22. It shall be unlawful for any person under the age of twenty-one (21) years to purchase, consume, or have in his possession any such alcoholic beverage and beer regulated pursuant to this Ordinance. Further, it shall be unlawful for any person under the age of twenty-one (21) years to make a false statement as to his or her age for the purpose of obtaining any alcoholic beverage and beer.

SECTION 23. No Privilege License required by this Ordinance shall be issued to any person or entity unless a satisfactory application is furnished to the City Clerk. Should the license be revoked pursuant to Section 24 of this Ordinance, the said revocation shall operate as a cancellation and forfeiture of the rights of the person or entity holding a license issued under the terms of this Ordinance.

SECTION 24. All applicants must be approved by the City Clerk of the City prior to the granting of the Privilege License to be issued pursuant to this Ordinance. The Mayor and Board of Alderman shall establish certain standards by which to evaluate the qualifications of said applicants before the issuance of the Privilege License, said standards or qualifications to include, but shall not be limited to, the following to-wit:

A. Applicant must be person of at least twenty-one years of age, of good moral character, a citizen of the United States and the State of Mississippi.

B. Applicant must present proof of State Tax Commission permit.

C. Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution, nor shall have been convicted within two (2) years of the date of his application of any violation of the laws of this or any state or the laws of the United States relating to beer or alcoholic beverages of any kind, including wines.

D. Applicant shall not have had revoked, within two (2) years next preceding his application, a Privilege License issued to him pursuant the laws of this City, or any other license or permit issued by this state, or any other state, to sell beer or alcoholic beverages of any kind, including wines.

E. Applicant shall be the owner of the premises for which the Privilege License is sought or the holder of an existing lease thereon.

F. Applicant shall not be residentially domiciled with person whose Privilege License has been revoked pursuant to Section 24 of this Ordinance within two (2) years next preceding the date of the present application for a Privilege License.

G. Applicant shall not employ any person whose Privilege License has been revoked during a period when such person owned or operated the business on the premises for which a Privilege License is sought nor shall the applicant allow such person to have any financial interest in the business of the applicant, until such person is qualified to obtain a license in his own name.

H. Applicant shall not be indebted to the City of Louisville for any taxes or any indebtedness of any nature whatsoever.

I. If applicant is a partnership, all members of the partnership must be qualified to obtain a Privilege License.

J. If applicant is a corporation, all officers and directors thereof, any stockholder owning more than five percent (5%) of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for any individual licensee.

However, the requirements as to residence established in paragraph E of this Ordinance shall not apply to officers, directors, or stockholders of such corporation, although such requirements shall apply to any officer, director or stockholders who is also the manager of the licensed premises or who is engaged or employed at the licensed premises.

K. If for any reason to permit the applicant to hold a Privilege License would threaten the public health, safety, morals and general welfare of the citizens of the City of Louisville, the applicant shall be denied.

L. Upon issuance of Privilege License, the fee will be in accordance with Section 27-71-345, Mississippi Code of 1972, as amended, and said license shall expire September 1 of each year in conjunction with expiration date as set forth by the state.

M. Any misstatement or concealment of fact in an application shall be grounds for denial of the application or revocation of the Privilege License issued thereon. Said applicant shall be investigated prior to an act of the City Clerk granting the Privilege License.

SECTION 25. Any individual, partnership, association, corporation, or business entity of any description or nature whatsoever violating any provision of this Ordinance, either retailer or consumer, shall be guilty of a misdemeanor, and upon conviction, shall be punished for any violation of this Ordinance as for a misdemeanor offense and may be fined not exceeding the sum of One Thousand Dollars (\$1,000.00), or sentenced to serve not exceeding six (6) months in jail, or both. The Chief of Police shall advise the Mayor and Board of Alderman of any conviction in the Municipal Court of the City of Louisville under this Ordinance.

SECTION 26. Should any individual, partnership, association, corporation, or business entity of any description or nature thereof, be convicted of a violation of any provision of this Ordinance, or Chapter 31 of Title 97 of the Mississippi Code of 1972, Annotated, as amended, the Privilege License issued to said individual partnership, association, corporation, or business entity of any description or nature whatsoever, pursuant to this Ordinance may be administratively suspended or revoked by the Mayor and Board of Alderman as set forth herein:

A. Upon notice of conviction of an individual, partnership, association, corporation, or business entity of any description or nature whatsoever licensed under this Ordinance or Chapter 31 of Title 97 of the Mississippi Code of 1972, Annotated, as amended, or upon notice of a conviction of any agent or employee thereof, the Mayor and Board of Alderman shall consider the conviction and may take action to administratively suspend or revoke the license.

B. Administrative action to consider suspension or revocation of the license shall occur within forty-five (45) days of notice of the conviction, and shall follow the guidelines set forth in Paragraph C herein.

C. The Mayor and Board of Alderman shall act administratively to hear facts and circumstances concerning the conviction in the case of the first or second offense of a single license-holder or its agents or employees within a twelve-month period. This hearing shall be held during a regular or recess meeting of the Mayor and Board of Alderman or at a special meeting, but in any event in an open meeting. A certified copy of the docket entry of the conviction shall be prima facie evidence of the conviction, but at the will of the Board, the Chief of Police or his designated agent may be present additional testimony to the Board regarding the facts and circumstances to the Board by verified testimony, that are relevant and proper. After examining the facts, the Board shall act within the following parameters:

FIRST CONVICTION: The Board may determine to suspend or revoke the license for a period of no less than 30 days and no more than one year. The Board may determine to neither revoke nor suspend the license on the first offense.

SECOND CONVICTION: The Board may determine to suspend or revoke the license for a period of time of no less than 30 days and no more than one year.

D. Upon notice of a third or subsequent conviction of a single license-holder or its agents or employees within a twelve-month period, the Board shall act to administratively revoke the license for a 24-month period without necessity of any administrative hearing.

SECTION 27. Prior to the issuance of any Privilege License pursuant to this Ordinance, the applicant must complete and file with the City Clerk a "Retailer Beer Application for Privilege License".

SECTION 28. This Ordinance is declared to be cumulative and supplemental to any and all acts and laws of the State of Mississippi, pertaining to the governing of the sale, consumption, and distribution manufacture of any alcoholic beverage and beers, and in the interest of promoting the public health, morals, safety, and general welfare of citizens of the City of Louisville, Winston County, Mississippi.

SECTION 29. If any section, paragraph, clause or sentence of this Ordinance be declared illegal or unconstitutional, or in conflict with existing statutes, it shall not impair or effect the validity of the remainder of said Ordinance, but all other provisions, conditions, and stipulations of said Ordinance shall remain in full force and effect.

SECTION 30. A certified copy of this Ordinance shall be published once in the Winston County Journal, a newspaper having general circulation within the City of Louisville, Winston County, Mississippi, for the information and guidance of the citizens of said City of Louisville.

SECTION 31. The Mayor and Board of Alderman of the City of Louisville, Mississippi, now find as a fact and adjudicate that unless this Ordinance takes effect immediately there will be unrestricted sale of any alcoholic beverage and beer and light wine in said City; that unless this Ordinance takes effect immediately the Mayor and Board of Alderman will be faced with the prosecution of many law suits in order to close all retail outlets manufacture of any alcoholic beverage and beer and light wines not in compliance with this Ordinance. Therefore, the Mayor and Board of Alderman of the City of Louisville, Mississippi, find and adjudicate that, in order to preserve public health, morals, and safety, this Ordinance must be effective from and after its passage. Therefore, this Ordinance shall be and is effective from and after its passage.

The foregoing Ordinance was introduced in writing and Alderman Frances S. Ball moved for its adoption, which motion was duly seconded by Alderman Eugene Crosby, and said Ordinance was read and considered paragraph by paragraph, and section by section at a public meeting of the Mayor and Board of Alderman of the City of Louisville, Mississippi, and after due consideration was voted on paragraph by paragraph and section by section, and then as a whole, all at said public meeting, upon roll call vote, the Alderman as follows:

Alderman <u>Frances S. Ball</u>	voted <u>aye</u>
Alderman <u>Richard R. Caperton</u>	voted <u>aye</u>
Alderman <u>Judy H. McLeod</u>	voted <u>aye</u>
Alderman <u>Gwenita Mays</u>	voted <u>aye</u>
Alderman <u>Eugene Crosby</u>	voted <u>aye</u>

Thereupon, the Mayor of said City declared said Ordinance duly and legally adopted and approved, section by section, and as a whole.

ORDAINED BY THE MAYOR AND BOARD OF ALDERMAN of the City of Louisville, Mississippi, on this the 6th day of December, 2011.
Will Hill, Mayor; Babs W. Fulton, City Clerk