

CITY OF ASHLAND

ALCOHOL ORDINANCE

ORDINANCE NO. 2016-04-04-01

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ARTICLE I. GENERAL PROVISIONS

Section A. Short Title

This ordinance shall be known as and may be cited as the “City of Ashland Alcoholic Beverage Ordinance.”

Section B. 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 the applicable provisions of the laws of the State of Alabama.

Section C. Authority

This ordinance is established in pursuance of the authority conferred unto the City of Ashland by The Alcoholic Beverage Licensing Code, §28-3A-1 et. Seq., Code of Alabama 1975.

Section D. Jurisdiction of Ordinance

The requirements and standards contained in this Ordinance shall apply to all areas within the corporate boundaries of the City of Ashland.

Section E. Zoning Districts Where Licensing Permitted

1. Licenses for the sale of alcoholic beverages shall only be issued to premises located in the following zones:

- a. B-1: General Business District
- b. B-2: City Square Commercial District
- c. IND: Industrial District

2. EXCEPTIONS:

- a. A club license may be issued outside of the above mentioned zones upon approval by the City Council. This determination shall be made on a case by case basis. The City Council shall consider the character of the person or individual applying for the club license, the character of the area in which the individual wishes to locate the club, any negative effects that the issuance of the license may cause to the area and the concerns, if any, of the residence of the area that the club is to be located in.
- b. A Special Event license may be issued outside of the above mentioned zones upon approval by the City Council. This determination shall be made on a case by case basis. The City Council shall consider the character of the person or individual applying for the Special Event license, the character of the area in which the individual wishes to host the event, any negative effects that the issuance of the license may cause to the area and the concerns, if any, of the residence of the area that the event is to be hosted in.

Section F. Definitions

Whenever used herein, the following words and phrases shall have the meanings herein specifically ascribed to them:

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

Association: A partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons.

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

Board: The state alcoholic beverage control board.

Code: The Alabama Alcoholic Beverage Licensing Code, set out in Code of Alabama. 1975, title 28 chapter 3A.

Carton: The package or container or containers in which alcoholic beverages are originally packaged for shipment to market by the manufacturer or its designated representatives or the importer.

Container: The single bottle, can, keg, bag, or other receptacle, not a carton, in which alcoholic beverages are originally packaged for the market by the manufacturer or importer and from which the alcoholic beverage is consumed by or dispensed to the public.

Convenience Store: A retail establishment whose primary function is the sale of fuel and packaged food and grocery items for consumption off the premises and whose floor space is at less than seventy five hundred (7,500) square feet.

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

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

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 and whose floor space is at least five thousand (5,000) sq. ft.

Licensee: Any person licensed by the city council to sell liquor, wines, or malt and brewed beverages under the terms of this ordinance.

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

Lounge (Class 1): Any place or premises operated by a responsible person or good reputation in which alcohol beverages of all types may be offered for sale for on premises consumption only but which does not meet the requirement for a restaurant or private club as these establishments

are defined herein and which meets the requirements of the city's zoning ordinance and the following additional requirements.

1. Lounge area of at least 1000 square feet on one floor in one room, such area to be equipped with tables and chairs and capable of seating at least 50 persons.
2. A minimum of 5 off-street parking spaces shall be provided for each 100 square feet for lounge area, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.

Lounge (Class 2) Package Store: A class 2 lounge retail liquor licensee who operates the licensed premises for the sale of all classes of alcoholic beverages for off premises consumption only. In addition to meeting all other legal requirements, such licensee must also comply with the following additional conditions and requirements:

1. The licensee must have a minimum of 500 square feet of floor space for the display and sale of alcoholic beverages. The square footage herein required shall not include areas of the licensed premises which are not open to the patrons or general membership of the licensee and which are used for office space, storage or restroom facilities.
2. The licensee is authorized to sale only alcoholic beverages, ice, mixers, snack items and tobacco products. The licensee shall not sell general grocery items, novelties, clothing or any other item of general merchandise.
3. The licensed premises shall not contain any interior door, window or passage way of any kind or description which opens or may be opened into an adjoining building. So-called "service stores" and "pass-through windows" are strictly prohibited. If the state fire marshal or the local fire chief determines that such a passage way would be necessary for the safety of the employees, members or patrons of the licensee, than in such event such passage way shall be allowed but the same shall be kept closed except for emergency or employees use and must be behind the counter.
4. The licensee shall at all times when open for business have in its possessions a minimum inventory of \$5,000.00 wholesale value of liquor or wine. The liquor must have been produced by at least two distilleries, and the wine produced by at least two wineries.
5. The licensee shall not advertise or identify its premises, prices or location by the use of flashing or blinking signs whether operated by electricity, gas or otherwise.
6. No person under the age of 21 years shall be issued such license nor shall any corporation be issued such license unless the president thereof shall be over the age of 21 years.

7. No person under 21 years of age shall be admitted on the premises of any class 2 lounge package store as a patron or employee, and it shall be unlawful for any class 2 lounge package store licensee to admit any minor to the premises as a patron or an employee.

Meal: A diversified selection of food some of which is not susceptible 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.

Person: Every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, such term as applied to “association” shall mean the partners or members thereof and as applied to “corporation” shall mean the officers thereof, except as to incorporated clubs, the term “person” shall mean such individual or individuals who, under the bylaws of such club shall have jurisdiction over the possession and sale of liquor therein.

Private club: Class I only: A corporation or association organized or formed in good faith by authority of law and which must have at least one hundred fifty (150) 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, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. 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.

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 any admission or other charge, and without limiting the foregoing, shall include any streets, alleys, sidewalks, public easements, or right-of-ways, 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 and libraries, places where school related and recreational games or contests are held, any theater, auditorium, show, skating rink, dance hall or other place of amusement or any club, provided that such term shall not mean or include premises which have been duly licensed under the ordinances of the city and the laws of the state for sale or consumption of such beverages and provided that with consent of the city council a private gathering may not be included within the meaning of public place with respect to the owners, occupants or lessees of such premises or place or to any persons specifically invited therein: provided, that such term shall not mean or include premises which have been duly licensed by the city for sale thereon of such beverages.

Restaurant: A reputable place licensed as a restaurant, operated by a responsible person of good reputation and habitually and principally used for the purpose of preparing and serving meals for the public to consume on the premises and which meets the following additional requirements:

- a. At least one (1) meal per day shall be served at least five (5) days a week, serving every business day, with the exception of holidays, vacations, and periods of redecorating;
- b. Such place shall be duly licensed by the board for the sale of liquor for on-premises consumption; and
- c. The serving of such food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines or other alcoholic beverages being only an incidental part of such business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute more than fifty (50) percent of the gross receipts of the business.

Retail, off premises, package liquor store: means a place at which alcoholic beverages are offered for off-premises consumption which is operated by a responsible person of good reputation and which meets the following additional requirements:

- a. Such place shall be duly licensed by the ABC board of the State for the sale of liquor for off-premises consumption. The licensee must have a minimum of five hundred (500) square feet of floor space for the display and sales of alcoholic beverages. The square footage required in this subsection shall not include areas of the licensed premises which are not open to the patrons and which are used for office space, storage or restroom facilities.
- b. Such place shall meet the following building requirements:
 - i. The building must be separated from any other building by a wall or firewall with no way of entrance to adjoining building.
 - ii. There shall be no windows except plate glass windows in the front of building which must be protected by burglar bars or burglar alarm. No drive-through windows will be allowed.
 - iii. There shall be no public seating in the building.
 - iv. There shall be a complete day/night lighting in front and rear of the building.
 - v. All stock must be kept in the same building in which it is offered for sale; it cannot be stored off the premises.

- c. The licensee is authorized to sell only alcoholic beverages, ice, cocktail mixers and tobacco products.
- d. The licensee shall at all times when open for business have in its possession a minimum inventory of five thousand dollars (\$5,000.00) wholesale value of liquor or wine. The liquor must have been produced by at least two (2) distilleries, and the wine produced by at least two (2) wineries.
- e. No person under the age of twenty-one (21) years shall be issued such license nor shall any corporation be issued such license unless the president thereof is over the age of twenty-one (21) years.
- f. No person under twenty-one (21) years of age shall be admitted on the premises of any package store as a patron or employee.
- g. Package stores must close at 10:00 P.M.

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

Sale or sell: Any transfer of liquor, wine or beer for a consideration, and any gift in connection with, or as a part of, a transfer of property other than liquor, wine or beer for a consideration.

School: A building erected for the purpose of conducting educational activities for grades Kindergarten through 12.

Special events: An athletic, sporting, or entertainment activity planned in advance by responsible persons or organizations of good reputation for a period not exceeding seven (7) days duration.

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

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

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

beverages, vinous liquors and like products, including restored or unrestored pure condensed juice.

Fortified wine or Vinous Liquor: Any wine containing more than 14.9 percent alcohol by volume but not more than twenty-four (24) percent. Fortified wine is vinous liquor.

Table wine: Any wine containing more than 14.9 percent of alcohol by volume. Table wine is not liquor, spirituous or vinous.

ARTICLE II. LICENSE REQUIREMENT AND PROCEDURE

Section A. License Required

1. It shall be unlawful for any person to have in such person's possession any alcoholic beverages, within the city, for the purpose of sale, or to sell, or keep for sale, or offer for sale, without first having procured from the city a license therefore.
2. 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 one hundred and fifty dollars (\$150.00), 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 ordinance. Said City shall retain 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 seventy-five dollars (\$75.00).

Section B. License Application

1. The application of any person for any license issued under this ordinance shall be made upon such forms as the city clerk may prescribe. All such applications shall be in writing and shall be properly verified by oath of the applicant.
2. Applicant Qualifications

Licenses shall be granted and issued by the city only to reputable individuals who are citizens of the United States or associations whose members are reputable individuals who are citizens of the United States or to reputable corporations organized under the laws of the state or duly qualified there under to do business in the state.

1. No license will be issued to any applicant that has or had a violent, alcohol, or drug conviction within the last ten years of the date of application.

Section C. Compliance with Fire Prevention and Building Codes

1. No license under this ordinance shall be issued to any person to sell alcoholic beverages for on-premises consumption until the applicant shall comply with the fire prevention code and the various building codes of the city in effect at the time of such application.
2. No license shall be issued under this ordinance unless the city building inspector certifies that the premises to be licensed is in substantial compliance with the objectives of the requirements contained in the City of Ashland Zoning Ordinance.

Section D. Investigation of Applicant

Upon application for a license for sale of alcoholic beverages, the city shall conduct its own investigation in all matters contained in the application. Upon completion of the investigation, the application along with the results of the investigation, shall then be delivered to the city council, which may grant or deny the application in the exercise of its ultimate discretion, considering any and all factors, including the report of the Alcohol License Review Committee and the impact on the area involved as well as to the City. The city council shall report any denial and the reasons for such denial to the Alabama Beverage Control board.

Section E. Alcohol License Review Committee

1. There is hereby created for the purpose of assisting and advising the city council in the review of applications for alcoholic beverage licenses, and inquiry and recommendation concerning complaints or disciplinary action of an alcoholic beverage licensee, a committee to be known and designated as the Ashland Alcohol License Review Committee to be composed as follows:
 - a. Revenue department representative
 - b. Chief of police or his designated representative
 - c. Building inspector or his designated representative
 - d. Fire chief or his designated representative
 - e. Citizen appointed by the mayor

2. The committee shall hold meetings as are necessary to review alcohol license applications or make inquiry into the compliance of a current alcoholic beverage licensee with this chapter and other provisions of the code. The city council shall provide the committee with its rules of procedure, which the city council may, in its discretion, amend or alter at any time.
3. The committee shall investigate the information contained within the application for an alcoholic beverage license and shall submit a written recommendation to the city council concerning the approval or disapproval of the application. The city council may then deny the application or withhold final decision following a public hearing.
4. The committee shall investigate complaints, or initiate its own inquiry, into conditions which may violate provisions of this ordinance concerning the operation of any establishment licensed by the city to sell alcoholic beverages.
5. The committee shall have the authority to require the licensee to produce records for its review as relate to the operation, ownership, or management of the licensed establishment.
6. The committee shall promulgate written procedures for documenting and investigating complaints concerning the operation of an alcoholic beverage establishment as well as establishing a method of documenting violations of this ordinance by a licensee or its employees. The committee shall be responsible for requesting the city council to consider disciplinary action against a licensee when violations of this or other ordinances of the city, or laws of the state warrant.
7. The committee shall investigate and make recommendations on any other alcohol related matters which may be submitted to the committee by the city council.

Section F. Notice of hearing on applications

If the application has not been denied, the applicant must next publish notice of the filing of the application and of the time set for a hearing once a week for two (2) consecutive weeks in a newspaper of general circulation in the city. The notice shall be published at no cost to the city and the applicant shall submit a publisher's affidavit to the city council of compliance with the publication notice. The notice shall be substantially as follows:

Notice is hereby given that _____ doing business as _____ located at _____ has made an application for the City of Ashland City Council to approve the issuance of a _____ license by the Alabama Alcoholic Beverage Control Board and that the _____ day of _____, 20__, at _____ p.m. has been

set for the hearing thereof at the Ashland City Council meeting. Any interested persons may appear at such time and place and be heard for or against the granting of such approval.

Section G. Posting of licenses

Every license issued under this ordinance shall be conspicuously and constantly exposed under a transparent and visible substance on the licensed premises.

Section H. Suspension or revocation of license; assign ability

1. The city shall have the right to suspend or revoke any license issued to any person for any violation of this Ordinance or the state alcoholic beverage licensing code.
2. Licenses issued under this Ordinance may not be assigned or transferred.

Section I. Requirements of Financial Responsibility of Licensee

Upon receiving approved license, licensee shall provide proof of liquor liability (dram shop) insurance as referenced in the Alabama Beverage Control Board Rules and Regulations in Rule 20-X-5-.14

Section J. License fees or taxes – Schedule

1. Each person licensed by the board, who shall engage in the alcoholic beverage, liquor, beer or wine business within the corporate limits, shall, prior to engaging in such business, in addition to any other privilege licenses required, pay to the city, for the privilege of so engaging in business, an annual fee or tax and further license fees or taxes as established below:
 - a. *Beer wholesale license:* Each person licensed as a beer wholesaler shall pay to the city an annual license fee of 50 percent of the amount charged for state beer wholesale license by the state (currently two hundred seventy-five dollars (\$275.00)). In addition, each licensee will remit to the city clerk, on forms provided by the city clerk, each month, the privilege or excise tax levied on the sales of beer by the “Uniform Beer Tax Act,” Code of Alabama, 1975. Section 28-3-190 – 28-3-199. Wholesale beer dealers and distributors shall not sell to any retail outlet that does not have a current city beer license.

- b. *Wine Wholesale license:*** Each person licensed by the board as a wine wholesaler shall pay to the city an annual license fee of 50 percent of the amount charged for state wine wholesale license by the state (currently two hundred seventy-five dollars (\$275.00)). In addition, each licensee will remit to the city clerk, on forms provided by the city clerk, each month, the privilege or excise tax levied on the sale of table wine by the “Alabama Table Wine Act,” Code of Alabama, 1975. Sections 28-7-1 – 28-7-24.
- c. *Restaurant retail liquor license:*** Each person licensed by the board to sell alcoholic beverages in connection with the operation of a restaurant under the terms of this ordinance shall pay to the city an annual license fee of 50 percent of the amount charged for state restaurant retail liquor license by the state (currently one hundred and fifty dollars (\$150.00)). In addition to such stated license fee, each such person shall pay to the city, on or before the fifteenth 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 ten (10) percent of the gross purchases made by the licensee from the board during such next preceding calendar month, other than purchases of beer and table wine.
- d. *Club retail liquor license:*** Each person licensed by the board to operate a Class I club, under the Code of Alabama shall pay to the City an annual license fee of 50 percent of the amount charged for state club retail liquor license by the state (currently one hundred and fifty dollars (\$150.00)). In addition, to said stated license fee, each person 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 ten percent (10%) of gross purchases made by the licensee from the board during such next preceding calendar month, other than purchases of beer and table wine. Any club so organized shall acquire a club retail license rather than a restaurant retail license.
- e. *Lounge retail liquor license (Class 1):*** Each person licensed by the board to operate a retail lounge under the Code of Alabama shall pay to the City an annual license fee of 50 percent of the amount charged for state lounge retail liquor (Class 1) license by the state (currently one hundred and fifty dollars (\$150.00)). In addition to said stated license fee, each person shall pay to the city on or before the (15th) day of the calendar month next succeeding each month each separate calendar month, for the privilege of having engaged in such business, an additional license tax of ten percent (10%) of gross purchases made by the licensee from the board during such next preceding calendar month, other than purchases of beer and table wine.

- f.** *Lounge retail liquor license (Class 2):* Each person licensed by the board to operate a retail lounge under the Code of Alabama shall pay to the City an annual license fee of 50 percent of the amount charged for state lounge retail liquor license (Class 2) by the state (currently one hundred and fifty dollars (\$150.00)). In addition to said stated license fee, each person shall pay to the city on or before the (15th) day of the calendar month next succeeding each month each separate calendar month, for the privilege of having engaged in such business, an additional license tax of ten percent (10%) of gross purchases made by the licensee from the board during such next preceding calendar month, other than purchases of beer and table wine.
- g.** *Retail table wine license for off-premises consumption:* Each person licensed by the board to sell table wine at retail for off-premises consumption shall pay to the city an annual license fee of 50 percent of the amount charged for state retail table wine license for off-premises consumption by the state (currently seventy-five dollars (\$75.00)).
- h.** *Retail table wine license for on premises consumption:* Each person licensed by the board to sell retail table wine for on premises consumption shall pay to the city an annual license fee of 50 percent of the amount charged for state retail table wine license for on premises consumption by the state (currently seventy-five dollars (\$75.00)).
- i.** *Retail beer license for off-premises consumption:* Each person licensed by the board to sell beer for off-premises consumption shall pay to the city an annual license fee of 50 percent of the amount charged for state retail beer license for off-premises consumption by the state (currently seventy-five dollars (\$75.00)).
- j.** *Retail beer license for on premises consumption:* Each person licensed by the board to sell beer for on premises consumption shall pay to the city an annual license fee of 50 percent of the amount charged for state retail beer license for on premises consumption by the state (currently seventy-five dollars (\$75.00)).
- k.** *Special events retail license:* Each person licensed by the board for a special events retail license which is valid for seven (7) days or less, shall pay to the city a privilege or license tax of 50 percent of the amount charged for special events retail license by the state (currently seventy-five dollars (\$75.00) per day).

Section K: Bond of License

1. If the city council decides to approve a club retail liquor license, a restaurant retail liquor license, a retail liquor license for off-premises consumption (other than a store operated by the board), or a special retail liquor license, the city council shall approve the same only upon condition that the applicant for a liquor license shall deliver to and maintain with the city a bond executed by the licensee and by a qualified surety company authorized to do business in the city payable to the city, in the sum of twenty-five hundred dollars (\$2,500.00) as liquidated damages and conditioned that the licensee will comply with the laws of the state and the ordinances of the city, including, but not limited to, this ordinance relating to a retail liquor license.
2. The bond shall be a forfeiture or liquidated damages bond and not an indemnity bond. Such bond shall include an endorsement to the effect that it shall not be canceled without the consent of the city council. The city may declare such bond forfeited as liquidated damages in its full amount of twenty-five hundred dollars (\$2,500.00) upon the breach of any one (1) or more of such conditions.
3. In lieu of such bond, such applicant for a retail liquor license may deposit with the city clerk cash in the amount of twenty-five hundred dollars (\$2,500.00) upon the same conditions and subject to forfeiture, as set forth above.
4. Failure by the city to declare such bond or deposit forfeited in the case of a breach of any one (1) or more of such conditions shall not operate as a waiver of the right to do so in the event of any subsequent breach of any one (1) or more such conditions.

Section L: Records to be kept; availability for inspection

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 reports there 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 such wholesaler's customers, and such ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by the purchaser's authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom such retailer purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof, and the number of cases or bottles purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than two (2) years succeeding such calendar year. All of such records shall be open for inspection and checking during such regular business hours as the city clerk may request. Failure to keep any of the records required by this section or elsewhere in this

ordinance, or refusal to make the same available to the city clerk, shall constitute grounds for revocations of any license issued under this ordinance. In addition thereto, an annual report, under oath, shall be filed with the city clerk in January of each year, showing the purchases of the entire year, next preceding.

Section M: Filing of Reports

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

Section N: Due Dates; Delinquent Dates; Penalties; Proration

The stated annual license fees levied by the schedule shall initially be due on the date the initial license is issued by the city and thereafter shall be due on January second of each year and shall be delinquent after January thirty-first of the year for which such license is due, and a penalty of fifteen (15) percent per month shall be collected on each delinquent license collected on or after January thirty-first of such year. All additional license taxes levied by the schedule shall be due the fifteenth day of the calendar month specified in each levy and shall be delinquent if not paid by such date, and a penalty of fifteen (15) percent shall be collected after such day of each month. There shall be no proration of any license fee because of having operated only a part of a calendar year, except as required by state law.

ARTICLE III. CONTROL OF ALCOHOLIC BEVERAGES

Section A. Sales to Certain Persons

It shall be unlawful to sell within the city limits any alcoholic or intoxicating liquors of any kind to any minor, person of known intemperate habits, or to any person under the influence of intoxicating liquor, as the term "under the influence" is defined by the Code of Alabama, 1975. Section 32-5A-191.

Section B. Possession by a Minor

It shall be unlawful for any minor to possess any alcoholic beverage.

Section C. Misrepresentation of Age of Minor

1. *By adult:* It shall be unlawful for any adult to make to any liquor dealer, agent or employee, any false pretense, statement or representation as to the age of a minor, with the intent or purpose to induce such liquor dealer, agent or employee, to give, deliver or sell any alcoholic beverage to any minor.
2. *By minor:* It shall be unlawful for any minor to obtain, or attempt to obtain, any alcoholic beverage from any liquor dealer, agent or employee by means of any false representation, pretense or statement, to such liquor dealer, agent or employee, that such minor has attained majority, or is over the legal drinking age, as established by the state.

Section D. Delivery of Beverages in Properly Marked Vehicles

It shall be unlawful for any manufacturer, wholesaler or distributor to deliver any vinous, malt or brewed beverages except in vehicles bearing the name, address and license number of such distributor, wholesaler or manufacturer, painted or affixed plainly on each side of such vehicle in letters not smaller than four (4) inches in height.

Section E. 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 licensee's building used for alcoholic beverage sales.

Section F. Signs Advertising Alcoholic Beverages at Places of Business

It shall be unlawful for any person to display any sign (electronic, painted or otherwise) containing the name, brand name, or any phonetic spelling or misspelling of a name for any alcoholic beverage as enumerated and defined in this chapter (including any type of illustration or image depicting an alcoholic beverage) outside any place of business or in any window or door visible from the outside of the business. For the purposes of this section, any sign attached directly to any part of a window or its surround (including windows integrated into doors), or any sign placed within twelve (12) inches of the window with its content visible from the outside, will be considered to be in the window. Furthermore, this section shall be read in conjunction with the city's sign regulations. Any inconsistency with any prior ordinance which is

in conflict with the terms and conditions of this section, or contrary to its intent, shall be superseded by this section to the extent of the conflict.

Section G. Authorized Hours

1. There will be no restrictions on the authorized hours of sale for off-premises consumption licensees.
2. It shall be unlawful for any on-premises consumption licensee to sell, offer for sale, or to serve, dispense for offer or reward, or to offer to serve, or dispense for reward any liquor, wine, or beer, on the licensed premises between the hours of 12:00 AM and 6:00AM on Tuesday, Wednesday, Thursday, Friday, or Saturday of any week, or between the hours of 2:00AM on Sunday of any week and 6:00 AM of the following Monday.

Section H. Sale or Consumption in Public Places

It shall be unlawful for any person to drink, sell, serve, dispense, giveaway, or attempt to drink, sell, serve, dispense, giveaway, any alcoholic beverages while upon any street, alley, sidewalk, public easement, rights of way, or parking lots designed for use by the general public or in any public building (excluding any private recreation areas, leased or rented to individuals or clubs for special events) or upon any public property or while in any other public place in the city except when approved for special events by the City Council.

Section I. Open Containers

It shall be unlawful for any person to drink, sell, serve, display, dispense or give away, or attempt to drink, sell, serve, display, dispense or give away, any alcoholic beverage while upon any street or while in any motor vehicle in the city; and further, it shall be unlawful for any person to drink, sell, serve, display, dispense or give away, or attempt to drink, sell, serve, display, dispense or give away, any alcoholic beverage while upon any sidewalk within the corporate limits of the city; and further, it shall be unlawful for any person to possess alcoholic beverages 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, or in violation of Section H above.

Section J. Consuming alcoholic beverages in state liquor store or off-premises licensed establishment.

It shall be unlawful for any person to consume alcoholic beverages on the premises of any state liquor store or any off-premises licensee.

Section K. Sale at Unlicensed Premises

1. It shall be unlawful for any person to sell, furnish, give away, or consume any alcoholic beverages at any business, which is not licensed for the sale of alcoholic beverages under the provisions of this ordinance.
2. It shall be unlawful for any person to buy, sell, barter, give away, consume, or possess any alcoholic beverage on the premises of any alcoholic beverage licensee for which the licensee is not authorized to sell.

Section L. Order on premises; reports of assaults; affrays, etc.; certain conduct prohibited

1. It shall be the duty of each owner and of each manager or supervisor at any time charged with the management and supervision of any retail liquor, retail table wine or retail malt or brewed beverage licensed premises, while the same is opened 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 offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each officer, owner, manager or person in charge of any retail liquor, retail table wine, or retail malt or brewed beverage licensed premises with the city, immediately to make an appropriate report to the police department of the city of each assault, assault and battery, or affray, occurring on the licensed premises while said premises is open for business. It shall further be the duty of such person to make a written report of each incident to the police department of the city and to the local field office of the board within thirty-six (36) hours thereof.
2. No on-premises licensee shall conduct or allow to be conducted on the licensed premises any form of lewd or indecent entertainment, including but not limited to, male or female strippers, mud wrestling, topless or bottomless dancers or waitresses, lewd or indecent dancing, wet "T" shirt contest, or any other sensual or erotic contests, or activities of any kind.
3. It shall be unlawful for any licensee to make or allow to be made, any noise or sounds of such volume or such nature as to cause annoyance to the residents of the city or to disturb the peace by making of unnecessary noise.

Section M. Identification card required for managers or bartenders employed by licensee

1. Any person who wishes to be employed as a manager, bartender or server/seller by any alcoholic beverage licensee licensed under this ordinance shall be required to provide the employer with written evidence of their successful completion of the "responsible vendor" program, or any similar successor program as conducted through the alcoholic beverage control board, or an approved alternative responsible vendor program as described elsewhere in this ordinance. In lieu of the requirement in the preceding sentence, an employee may fulfill this requirement by successfully completing an employer sponsored responsible vendor program which has been approved in writing by the alcohol license review committee. The employee shall affirm to the employer, in writing, that he or she has no criminal convictions of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within the preceding twelve (12) months. The employer shall maintain a copy of said verification and affirmation on the licensed premises, and upon receipt of such verification and affirmation, shall issue the employee a card showing the employee's name, date of issuance, and the licensed name of the employer. The city may provide the licensee with the blank cards for use in fulfilling this requirement.
2. Any person who is employed as a manager, bartender, or server/seller by any alcoholic beverage licensee under this ordinance shall, while on duty on the licensed premises, have on their person an identification card issued by the employer indicating that he or she has complied with the requirements of this section and is duly registered with the employer as an approved manager, bartender, or server/seller.
3. It shall be unlawful for any alcoholic beverage licensee licensed under this ordinance to employ any manager, bartender, or server/seller who has not met the requirements of this section and who has not been issued the prescribed identification card by the employer.
4. It shall be unlawful for any alcoholic beverage licensee licensed under this ordinance to have on duty any manager, bartender, or server/seller who does not have on their person an identification card issued by the employer under this section.
5. It shall be unlawful for any manager, bartender, or server/seller to be on duty as such on an alcoholic beverage premises in the city without the identification card on their person issued by the employer under this section.
6. In the event the bartender or server/seller is not regularly employed by an alcoholic beverage licensee, but is working in the capacity as defined in this ordinance, said bartender or server/seller may obtain an identification card by providing a copy of the

written evidence of successful completion of the "responsible vendor" program to the city, along with an affirmation indicating that said person has no final conviction for a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within the preceding twelve (12) months, and a card will be issued to that person.

7. It shall be the responsibility of the manager, bartender, or server/seller to notify the employer in writing of any final conviction of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within fifteen (15) days of said final conviction. Said employer shall preserve such notice for a period of twelve (12) months.
8. It shall be unlawful for any alcoholic beverage licensee licensed under this ordinance to employ a person as a manager, bartender, or server/seller, who, in the next preceding twelve (12) months has been finally adjudicated as guilty of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation, and said person has notified the employer of such final conviction.
9. Any person currently employed as a manager, bartender, or server/seller by an alcoholic beverage licensee shall have ninety (90) days from the effective date of this ordinance to comply with the responsible vendor certification requirements contained within this section.
10. Notwithstanding any other provisions of this section, any person who is employed as a manager, bartender, or server/seller subsequent to the effective date of this ordinance shall have a period of forty-five (45) days in which to comply with the responsible vendor certification requirements of this section.

Section N. Duties and Responsibilities of the Person in Charge

1. Each alcoholic beverage licensee shall be required to designate a person or persons who will be known as the "person-in-charge" (PIC) for the licensed establishment. This person or persons shall be responsible for ensuring compliance with the provisions of this ordinance and those of the alcoholic beverage control board during such time as they are functioning in the role as a "person-in-charge" and shall be required to have visibly displayed on their person a card, as issued to the licensee by the city, indicating that they are the "person-in-charge".
2. Any person who is designated as a "person-in-charge", shall be required to provide written evidence to the employer of their successful completion of the responsible vendor program as conducted through the alcoholic beverage control board, or an

alternative responsible vendor program otherwise approved by the city as described elsewhere in this ordinance. Additionally, any such person shall provide an affirmation to the employer that said person has no final conviction for a drug or alcohol related offense involving possession, sale, or driving under the influence violation during the preceding twelve (12) months. Such records as required by this subsection shall be preserved by the employer for a period of twelve (12) months.

3. It shall be unlawful for any designated "person-in-charge" to be on duty as such on an alcoholic beverage premises in the city without the identification card issued by the city under this section visibly displayed on their person.
4. It shall be required for any alcoholic beverage licensee licensed under this ordinance, during authorized hours for operation, to have a minimum of one (1) "person-in-charge" on duty on the licensed premises who has the "person-in-charge" card, as issued by the city, visibly displayed on their person. A violation of this requirement shall be unlawful and punishable as such.
5. Each person designated and approved as a "person-in-charge" shall be required to notify the employer, in writing, within fifteen (15) days of final adjudication of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation in which said person was adjudged guilty. Said employer shall preserve such notice for a period of twelve (12) months.
6. It shall be unlawful for any alcoholic beverage licensee licensed under this ordinance to employ or utilize as a "person-in-charge" any person who, in the next preceding twelve (12) months has been finally adjudicated as guilty of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation, and said person has notified the employer of such final conviction.
7. Each such person who will be designated as a person-in-charge shall have ninety (90) days from the effective date of this ordinance to comply with the requirements for the "person-in-charge" card as required in this section. Each such person who will be designated as a "person-in-charge" subsequent to this initial ninety-day period shall be required to meet the requirements of this section prior to being designated as such.
8. The city shall issue one (1) "person-in-charge" card to each current licensee upon their meeting the requirements of this section, or at the time of initial license issuance for applications subsequent to the effective date of this article. Any replacement cards shall be provided to the licensee at a cost of five dollars (\$5.00) per occurrence.

Section O. Inspection

Pursuant to Alabama Alcoholic Beverage Control Board Administrative Code Number 20-X-5-.01 (d); an agreement by invitation from the licensee allowing duly authorized agents of the ABC Board or other duly commissioned law enforcement officers of the state, county, of municipality in which the licensed establishment is located, to enter and search, without a warrant, the licensed premises or any building owned or occupied by the licensee in connection therewith, adjoining, adjacent to or part of the curtilage thereof, whether used as a private dwelling or not, at any time.

Section P. Penalties and Punishments

1. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and unless otherwise provided herein, shall, upon conviction or adjudication of guilt, be punished in accordance with the provision of Ordinance of the City of Ashland, Alabama.
2. In addition to any other penalties imposed by law for violations of any sections of this chapter, the city shall revoke the privilege license issued pursuant to this chapter and the license ordinance for the second violation within a two-year period of any rule, section, duty or obligation as set out in this chapter, Title 28 Code of Alabama, or the Alcohol Beverage Control Board Rules and Regulations, as amended.

Section Q. Severability

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

Section R. Conflicts with State Statutes

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

Section S. Effective Date

This Ordinance shall become effective in the City of Ashland, Alabama, upon its adoption and publication according to law and, further upon certification by the City Clerk that the legalized sale of alcoholic beverages in the city has been authorized pursuant to provisions of the laws of the State of Alabama.

CITY OF ASHLAND ALCOHOL ORDINANCE

ADOPTED the 18 day of April, 2016.

Larry J. Fetner, Mayor

Billy J. Smith, Councilperson

Bobbie J. Steed, Councilperson

Gail E. Thompson

Rebecca G. Boddie

Brad Wolfe

ATTEST:

Chelsey Wynn, City Clerk/Administrator