

**ORDINANCE NO. 646**

**CITY OF HANCEVILLE, ALABAMA**

**AN ORDINANCE AMENDING ORDINANCE NO. 580 REGULATING THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF HANCEVILLE, ALABAMA, PROVIDING LICENSING PROCEDURES AND ESTABLISHING PUNISHMENT FOR VIOLATIONS. CONSOLIDATING ALL ACTIVE ALCOHOL BEVERAGE ORDINANCES INCLUDING ORDINANCE NUMBERS 580, 587, AND 588-A.**

BE IT ORDAINED by the City Council of the City of Hanceville, Alabama as follows:  
Ordinance No. 646 is replacing Ordinance Numbers 580, 587, and 588-A with the following:

**ARTICLE I. ALCOHOLIC BEVERAGES**

**SECTION 1.1. SHORT TITLE.**

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

**SECTION 2.1. PURPOSE.** This ordinance is enacted for the purposes, among others, of promoting the health and general welfare of the community, of establishing reasonable standards for the regulation and control of the licensing and sales of alcoholic beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable persons from engaging in or having any interest in the sale of alcoholic beverages. This ordinance shall be construed as an exercise by the city of the police power of the state delegated to the city in the regulation of traffic in alcoholic beverages within the city as provided by State of Alabama Code.

**SECTION 3.1. DEFINITIONS.** Whenever used in this chapter, the definitions set forth in the Alcoholic Beverage Licensing Code (*Code of Alabama 1975, section 28-3A-1 et seq.*) are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:

**Alcoholic Beverages:** 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.

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

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

**Beer, 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 or more of alcohol by volume and not in excess of 13.9 percent alcohol by weight and 13.9 percent by volume, by whatever name the same may be called.

**Board:** The Alabama Alcoholic Beverage Control Board.

**Business Owner:** A person or persons issued a privilege license by the City of Hanceville to conduct routine business.

**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.

**Child Development Facility:** Any child development program or club that promotes extended educational services that is private, church-run, or funded partially or completely by federal, state, or local government revenue. (i.e., Head Start programs, Boys & Girls Clubs, etc.), provided that said facility is duly licensed by the City of Hanceville or certified by the State of Alabama.

**Church:** Church shall mean an entire house or structure set apart primarily for use for purposes of public worship, and whose sanctuary is tax exempt under the laws of this state, and in which

religious services are held and with which a clergyman is associated, and the entire structure is kept for that use and not put to any other use inconsistent therewith.

**City Alcohol License Fee:** A fee charged by the City of Hanceville to a person or persons that has been granted approval by the Alabama Alcoholic Beverage Board for the privilege of selling alcoholic beverages within the city limits of Hanceville as herein enumerated and defined.

**Club:**

(a) Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 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.

(b) Class II. A corporation or association organized or formed in good faith by authority of law and which must have at least 100 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 collect dues from elected members.

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

**Committee/City of Hanceville Alcohol License Review Committee:** The City Clerk/Treasurer; the Chief of Police; the Fire Chief; the Building Inspector; Mayor; the Council President Pro-tem, and one member to be appointed by the City Council. If any of these shall be unable or unwilling to serve, the City Council shall appoint a different person. The term of the members

shall end when they are no longer holding the elected office or the employment with the City, for six (6) years or until the member is replaced by the City Council which may be done at the discretion of the Council.

**Distributor:** Any person transporting alcoholic beverage in the city for such person's own retail use or for delivery to a retailer whether or not the same be owned by such person.

**Engaged in business:** A person shall be deemed engaged in business within the corporate limits if that person has a fixed place of business within the corporate limits, or is, pursuant to agreement of sale, expressed or implied, that person delivers any alcoholic beverage, beer or wine within the corporate limits, or if that person performs, within the corporate limits, any act authorized to be done only by the holder of any license issued by the 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 (10) percent of its total gross sales and whose floor space is at least ten thousand (10,000) sq. ft.

**License:** A retail alcoholic beverage license or any other license issued by the Alabama Alcoholic Beverage Control Board, after consent and approval of the City Council.

**Licensee:** Any person licensed by the City Council for the privilege of engaging in a business involved in the sale of alcohol.

**Liquor:** Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverages, 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 of alcohol by volume, except beer and table wine.

**Lounge:** Any place or premises in which liquor or wine is offered for sale or consumption within the building in which the establishment is located, which is operated by a responsible person of good reputation and which meets the following additional requirements:

- (1) A space for at least one thousand (1000) square feet on one floor in one room equipped with tables and chairs to accommodate seating of at least fifty (50) persons at one time situated in the B-1 Zone with a sprinkler system.
- (2) A minimum of one and one-half (1 ½) off-street parking spaces for each one hundred (100) square feet of lounge area on a paved surface, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.
- (3) Such establishment shall otherwise meet the minimum requirements of the Alabama Alcoholic Beverage Control Board for an on-premises lounge retail liquor license.

**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 designated employees, by directing the activities of other employees of the licensed establishment. Such direction could include, but not be limited to, such responsibilities as assignment of employee tasks, scheduling of employee hours, evaluation of employee performance, and employee hiring or discipline.

**Meal:** 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.

**Minor:** Any person under 21 years of age; provided, however in the event Section 28-1-5 et seq. of the *Code of Alabama 1975*, shall be repealed or otherwise shall be no longer in effect, thereafter the provisions of Section 26-1-1 et seq. of the *Code of Alabama 1975*, shall govern.

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

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

**Person In Charge (PIC):** A person or persons, whether owner, partner, officer, or employee of the alcoholic beverage licensee, who is designated by the licensee as a responsible party for the licensee in ensuring compliance with the law and regulations of the Code of Alabama, the

Alabama Alcoholic Beverage Control Board, and the Ordinances of Hanceville, as apply to the operation of a business having retail sales of alcoholic beverages.

**Privilege License:** A privilege license issued by the City of Hanceville to a person or persons to conduct routine business.

**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, or right-of-ways, parking lots designed for use by the general public, public buildings, buildings which are open to the public including but limited to school buildings or grounds, parks and libraries, places where school related and recreational games or contests are held, any theater, auditorium, show, skating rink, dance hall or other place of amusement or any club, provided that such term shall not mean or include premises which have been duly licensed under the ordinances of the city and the laws of the state for sale or consumption of alcoholic beverages and provided that no private gathering is included within the meaning of public place with respect to the owners or occupants of such premises or place or to any persons specifically invited therein: provided, that such term shall not mean or include premises which have been duly licensed by the city for sale thereon of alcoholic beverages.

**Residence:** A building or portion thereof which is arranged, designed, used, or intended to be used for residential occupancy by one or more persons.

**Restaurant, Class I:** A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a diversified selection of food, refreshments and alcoholic beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following additional requirements:

- (1) A dining space containing one thousand (1,000) square feet or more on one floor in one room shall have a mandatory Class I designation.
- (2) The dining room shall be equipped with tables and chairs accommodating at least fifty (50) persons at one time and adequately air conditioned and heated as appropriate.
- (3) All spaces of a Class I restaurant must comply with the adopted building code occupancy requirements.



(4) A kitchen separate and apart from said dining area, but adjoining the same, in which food is prepared for consumption by the public and which the food or meals served in said dining area are prepared.

(5) At least two (2) meals per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods for redecorating.

(6) Such place shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on-premises license.

(7) The serving of food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines or other alcoholic beverages being only an incidental part of the business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute at least sixty (60) percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three (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/Treasurer, or duly authorized representative, may request.

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

- (1) A dining space of less than one thousand (1,000) square feet on one floor in one room.
- (2) Said dining room shall be equipped with tables and chairs accommodating a number of persons complying with all the adopted building code occupancy requirements.
- (3) The dining space shall be adequately air conditioned and heated as appropriate.
- (4) A kitchen separate and apart from said dining area, but adjoining the same, in which food is prepared for consumption by the public and in which the food or meals served in

said dining area are prepared.

(5) At least one (1) meal per day shall be served for each day open. Such place shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on-premises license.

(6) The serving of food or meals shall constitute the principal business of such establishments, with the serving of liquor, malted or brewed beverages, wines or other alcoholic beverages being only an incidental part of the business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute at least sixty (60) percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three (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/treasurer or duly authorized representative, may request. Examples, without limitation, of a Class II Restaurant are as follows:

- (a) A place of business meeting all other required criteria which may not be open for all meals of each day
- (b) A place of business meeting all other required criteria which may not be open five (5) days a week .
- (c) Delicatessens, dinner theaters, cafes, eateries, bistros and similar small establishments.
- (d) A place of business meeting all other required criteria but also presenting a minimum of nine hole golf course, public or private, who may also sell food and alcoholic beverages on the golf course, with the following exceptions: 1) no minimum meal per day requirement; 2) food sales in any ninety (90) day period must equal twenty (20) percent of gross revenue of food and beverage operation.

**School:** A state accredited public or private elementary, intermediate, middle, junior high or senior high school.



**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 and 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 un-restored pure condensed juice.

#### **SECTION 4.1. LOCATION OF PREMISES; ZONING DISTRICTS; NEAR CHURCH OR SCHOOL.**

(1) City licensed premises shall be located only within the following zoning districts, and in accordance with other applicable provisions of City Zoning Ordinance (Ordinance No. 510, as amended):

B-1 (Local Shopping District)

B-2 (General Business District)

(2) Subject to exceptions contained in this section, no facility or property shall be authorized for off-premises sale of alcoholic beverages where the building in which the premises are located is less than four hundred (400) feet from the primary entrance of any building in which there is a church. Subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the building in which the premises are located is less than one thousand (1000) feet from the primary entrance of any building in which there is a public or private elementary, intermediate, middle or junior high, high school and child development facility. No Lounge shall be located less than one thousand (1000) feet from the primary entrance of any building in which there is a public or private elementary, intermediate, middle or junior high, high school, church, residence, and child

development facility. The aforesaid distance restrictions shall not apply in the following enumerated cases:

- (a) Where the church or school was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of twelve (12) months or where the primary entrance was changed after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of twelve (12) months.
- (b) Where the city licensed premise is separated by a highway, road or street having at least four (4) traffic lanes.
- (c) Where the city licensed premise is a grocery store as defined herein.
- (d) Where the city licensed premise is a restaurant as defined herein.

(3) When measuring from a church or school, the primary entrance of the closest building in the church or a school complex wherein an essential function or activity of the church or school is carried on shall constitute the beginning point for measurement. When measuring from city licensed premises, the closest point on the exterior wall of the building occupied by the licensee shall be used for measurement purposes, if the building is occupied solely by the licensee; otherwise, such measurement shall be made from the closest point of the licensee's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points on licensed establishments to the aforementioned defined points on a church or school.

(4) In instances where the Council has delegated the authority to make the herein described determination to an agent, any person aggrieved by the decision of the agent may appeal the agent's decision to the Council. Such an appeal must be filed in writing within ten (10) days of the date of the agent's decision and must specify the details of the reason for the appeal. The Council shall hold a public hearing on such appeal at its next regularly scheduled meeting, which is at least fourteen (14) days after the appeal is received by the Clerk. The aggrieved party shall have the right to address the Council and present any relevant evidence and testimony at said hearing. The decision of the Council shall be final.

#### **SECTION 5.1. MAINTENANCE OF ORDER; REPORT OF VIOLATION.**

It shall be the duty of each licensee and of each manager or supervisor at any time charged with the management and supervision of any retail liquor, retail table wine or retail malt or brewed

licensed premises, while the same are open to the public, to maintain order upon the premises and to exclude from the premises any person who is drunk and disorderly or who commits any breach of the peace, or who uses or engages in offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each officer, licensee, manager, or person-in-charge of any retail liquor, retail table wine or retail malt or brewed beverage licensed premises within the city, immediately to make an appropriate report to the police department of the city of each assault, assault and battery or affray, occurring on the licensed premises while said premises are open for business. It shall further be the duty of said person to make a written report of each of said incidents to the police department of the city and to the local field office of the Alcoholic Beverage Control Board within thirty-six (36) hours thereof.

#### **SECTION 6.1. 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-ways, parking lots designated for use by the general public or in any public building or upon any public property, or while in any other public place in the city. As used in this section, the term "public place" shall mean and include any place or gathering which the public generally attends or is admitted to, either by invitation, common consent or right or by the payment of an admission or other charge, and, without limiting the generality of the foregoing, shall include public parks, city hall, library, school buildings auditoriums, any store or place where amusement and any high school athletic contest; provided, that such term shall not mean or include premises which have been duly licensed by the city as provided by the Code of Alabama, 1975.

(2) It shall be unlawful for a business licensed by the City of Hanceville (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 licensed 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 Hanceville, whether or not the business is licensed to sell or furnish alcohol. (*CROSS REFERENCES:* SECTION 15. Alcoholic beverages in open containers.)

(4) The commission of any offense under this section shall be considered a violation of this Ordinance.

**SECTION 7.1. MINORS; DRUNKARDS, INSANE PERSONS - 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 liquor, wine or beer to any person visibly intoxicated, or to any insane person, to any minor, to any habitual drunkard or person of known intemperate habits.

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

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

(4) The commission of any offense under this section shall be considered a violation of this Ordinance.

**SECTION 8.1. SAME - OFFENSES GENERALLY.**

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

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

(2) For any minor person to possess or to consume any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.

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

(4) For any person to hire, employ or allow any person less than twenty-one (21) years of age to serve or dispense alcoholic beverages of any kind. However, this prohibition does not apply when the only license held by the licensee is an off- premises beer license or an

off-premises table wine license or combination thereof, and provided there is an adult in attendance at all times. Provided further that persons who are nineteen (19) years of age or older and working as a waiter, waitress, or server may serve alcoholic beverages as provided in the preceding sentence shall be a licensee of the board who has been annually certified as a responsible vendor under the Alabama Responsible Vendor Act as provided in Chapter 10 (commencing with Section 28-10-1) of Title 28, Code of Alabama, 1975, as amended.

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

(6) For any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not twenty-one (21) years of age, by means of which false representation such person aids or abets or attempts to aid or abet, such minor person to buy, receive or otherwise obtain any malt or brewed beverage, any wine or liquor or any alcoholic or intoxicating beverages.

(7) The commission of any offense under this section shall be considered a violation of this Ordinance.

#### **SECTION 9.1. COMPLIANCE WITH CODE OF ALABAMA SECTION 28-3A-23**

All the provisions of the Code of Alabama shall apply, and the provisions of the Section 28-3A- 23 as amended by the 2009 Act and particularly:

(1) No retailer shall sell any alcoholic beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public; but this section shall not be interpreted to prevent a hotel or club licensee from selling such beverages in any room of such hotel or club house occupied by a bona fide registered guest or member or private party entitled to purchase the same.

(2) All beer, except draft or keg beer, sold by retailers must be sold or dispensed in bottles, cans or other containers not to exceed one pint or 16 ounces. All wine sold by

retailers for off-premise consumption must be sold or dispensed in bottles or other containers in accordance with the standards of fill specified in the then effective standards of fill for wine prescribed by the U.S. Treasury Department.

(3) No importer shall sell alcoholic beverages to any person other than a wholesaler licensee, or sell to a wholesaler licensee any brand or brands of alcoholic beverages for sale or distribution in this state, except where the importer has been granted written authorization from the manufacturer thereof to import and sell the brand or brands to be sold in the State of Alabama, which authorization is on file with the board.

(4) No wholesaler shall maintain or operate any place where sales are made other than that for which the wholesale license is granted; provided, however, a wholesaler may be licensed to sell and distribute liquor, wine and beer. No wholesaler shall maintain any place for the storage of liquor, wine or beer unless the same has been approved by the City. No wholesaler license shall be issued for any premises in any part of which there is operated any retail license for the sale of alcoholic beverages.

(5) In the event that any person to whom a license shall have been issued under the terms of this code shall become insolvent, make an assignment for the benefit of creditors, be adjudicated a bankrupt by either voluntary or involuntary action, the license of such person shall immediately terminate and be cancelled without any action on the part of the City, and there shall be no refund made, or credit given, for the unused portion of the license fee for the remainder of the license year for which said license was granted.

#### **SECTION 10.1. AUTHORIZED HOURS.**

It shall be unlawful, and considered a violation of this Ordinance, for any person, whether a liquor, wine or beer licensee or not, 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, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 12:00 AM and 7:00 AM on Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 12:01 AM on Sunday of any week and 7:00 AM of the following Monday.

#### **SECTION 11.1. REGULATION OF CONDUCT IN CLUBS, ETC.**

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 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 cashier or any lewd or indecent conduct.
- (2) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (3) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.
- (4) Acts involving the displaying of the anus, vulva or genitals.
- (5) Permitting any patron, customer or member to touch, caress or fondle the breasts, buttocks, anus or genitals, or any part of the body or clothing of a performer or entertainer.
- (6) Permitting the showing of films, still pictures, electronic reproductions or other visual reproductions depicting:
  - (a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - (b) Any person being touched caressed or fondled on the breasts, buttocks, anus or genitals.
  - (c) Scenes wherein a person displays the vulva or the anus or the genitals.
  - (d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in this section.
- (7) Any employee including but not limited to, waiter, waitress, dancer, entertainer, performer or model employed upon the licensed premises to sit at tables with the customers or members and guests while so employed and during the time that said establishment is open for business.
- (8) Any person at the time employed or engaged on the licensed premises as an entertainer or performer, to also serve as a waiter or waitress while so employed.
- (9) The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, including any "wet t-shirt" contest or other showing 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.

(10) The commission of any offense under this section shall be considered a violation of this Ordinance.

#### **SECTION 12.1. RECORDS; REPORTS.**

It shall be the duty of each person subject to the license tax imposed by this chapter 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 record, each wholesaler shall keep an individual ledger or card account for each of his customers, and said ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered, together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by his authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom he purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof and the number of cases purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than three (3) years succeeding said calendar year. All of such records shall be open for inspection and audit at the licensed premises within the city during such regular business hours as the City Clerk/Treasurer, or duly authorized representative, may request. Failure to keep any of the records required by this section, or elsewhere in this chapter, or by any amendment thereto, or refusal to make the same available to the City Clerk/Treasurer, or duly authorized representative, shall constitute grounds for revocation of any license issued under this chapter. In addition thereto, an annual report, under oath, shall be filed with the City Clerk/Treasurer, or duly authorized representative, in January of each year, showing the purchase of the entire year next preceding. As an additional penalty, the failure to follow the requirements of this section shall be considered a violation of this Ordinance.

### **SECTION 13.1. 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 building used for alcoholic beverage sales; if premises are within 400 feet of a church, all sales of alcoholic beverages must be placed in a bag, box or other similar opaque covering prior to the customer's leaving the licensee building.

### **SECTION 14.1. DELIVERY VEHICLES.**

A manufacturer or wholesaler shall deliver any alcoholic beverages in vehicles bearing the required information on each side of the vehicle as required by the board. The commission of any offense under this section shall be considered a violation of this Ordinance. (Title 28-3A- 25(13))

### **SECTION 15.1. OPEN CONTAINERS.**

It shall be unlawful for any person to:

- (1) Possess, consume or otherwise use any open container containing alcoholic beverages while upon or along any public place, street, road or highway in the city or while in any automobile or other motor vehicle on or along any public street, road or highway in the city except in the trunk or luggage compartment of a motor vehicle, or while in any other public place in the city.
- (2) Possess or use any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, and school stadium or school recreational facility.
- (3) Possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag or other receptacle not its original container while upon or along any public street, road or highway in the city or while on any automobile or other motor vehicle on or along any public street, road or highway in the city, or while in any other public place in the city.
- (4) The commission of any offense under this section shall be considered a violation of this Ordinance.

**SECTION 16.1. 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. Noncompliance with this section may result in punishment including but not limited to revocation of any license issued hereunder.

**SECTION 17.1. SIGN RESTRICTION and ADVERTISING.** No sign of any kind advertising table wine shall be displayed outside any retail place of business. Radio, television, newspaper, magazine, billboard, and commercial vehicles used for transportation of table wine may be used to advertise table wine in accordance with the Rules and Regulations issued by the Alabama Beverage Control Board. No other advertising of table wine shall be permitted except in accordance with the Rules and Regulations issued by the Alabama Beverage Control Board, provided, however, that there shall be no advertising of table wine on billboards located in "dry" counties as defined.

It shall be unlawful for any person, business, or premises selling beer, wine and/or alcohol for on-premises and/or off-premises consumption to display any sign (electronic, painted, or otherwise) containing the English name, brand name, or any phonetic spelling or misspelling of an English name for any alcoholic beverage as enumerated and defined in this Ordinance (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 Ordinance, any sign attached directly to any part of a window or its surroundings (including windows integrated into doors) or any sign placed within 36 inches of the window with its content visible from the outside will be considered to be in the window. 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 18.1. CITY OF HANCEVILLE 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 City licenses, and inquiry and recommendation concerning complaints or disciplinary action of a city licensee, a committee to be known and designated as the City of Hanceville Alcohol License Review Committee to be composed as follows: The City Clerk/Treasurer; the Chief of Police; the Fire Chief; the Building

Inspector; Mayor; the Council President Pro tem, and one member to be appointed by the City Council, shall act as liaison to the City Council on behalf of the committee. The committee shall hold meetings as are necessary to consider requests by applicants for alcohol licenses, address matters of public concern, or make inquiry into the compliance of a current city licensee with this chapter and other provisions of this chapter. If any of these shall be unable or unwilling to serve, the City Council shall appoint a different person. The term of the members shall end when they are no longer holding the elected office or the employment with the City, for six (6) years or until the member is replaced by the City Council which may be done at the discretion of the Council.

(2) The review committee shall operate under bylaws created and approved by the City Council.

(3) The Review Board members who are non-salaried employees of the City shall be paid for their time spent serving on the Board at the regular hourly wage and any applicable over-time.

(4) The Review Board members who are salaried employees of the City shall be paid in an amount to be established by resolution of the City.

(5) The Review Board member(s) who are not City employees shall be paid a sum to be established by a separate resolution of the City.

## **ARTICLE II. LICENSE**

### **SECTION 1.2. APPLICABILITY WHEN COUNCIL APPROVAL REQUIRED.**

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

### **SECTION 2.2. REQUIRED; TRANSFER, SUSPENSION; DISPLAY.**

(1) It shall be unlawful, and considered a violation of this Ordinance, for any person to

have in such person's possession any alcoholic beverages, within the city, for the purpose of sale, or to sell, or keep for sale, or offer for sale, any alcoholic beverages, without having first procured from the City a privilege license and the board, a liquor license therefore. Licenses issued under this chapter 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 with the City Clerk/Treasurer indicating this occurrence prior to either completing the sale of the licensed business, or relinquishing management or financial control of the business operation, whichever occurs first; and additionally, the party to whom the licensed establishment is to be sold must file with the City a complete application 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/Treasurer, or designated representative, any applicant may be requested to produce records of the business or the transaction surrounding the sale of the business to determine the parties involved or the effective date of the transaction. These records include, but are not limited to, lease agreements, land sale agreements, bank statements, stock transfers, minutes of corporate board meetings, and/or purchase invoices. Any failure to produce the requested records, or a determination by the City that the transaction is not in compliance with the requirements specified herein will result in an immediate forfeiture of the city license upon notification of this determination and an opportunity for a public hearing by the City Council.



(3) Licenses issued by the City shall be deemed to expire, terminate, or otherwise be void when there is a substantial change in ownership in a licensed establishment, or when a licensed establishment is leased, rented, or abandoned, or when possession is otherwise surrendered to another party 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 death of an individual licensee, sale of the licensed establishment, or 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/Treasurer, 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/Treasurer, or designated representative, prior to the release of the license.

(5) For the purposes of this section, and to assist in defining a substantial change in ownership, the sale or transfer of twenty-five (25) percent or more of a corporation's stock shall constitute a substantial change in ownership of the licensee.

(6) The City shall have the right to revoke any privilege license issued by the City for any violation of this chapter or the Alabama Alcoholic Beverage Control Board rules and regulations, after notice and opportunity for a hearing before the City Council.

(7) Every privilege license issued by the City to conduct normal and routine business and

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.

### **SECTION 3.2. APPLICATION FOR LICENSE; DEPOSIT.**

Each applicant seeking the consent and approval of the City Council for retail liquor license, lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license or other license issued by the Alabama Alcoholic Beverage Control Board shall make application to the City Council as required in this chapter. 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.

### **SECTION 4.2. APPLICATION AND REVIEW BY ALCOHOL LICENSE REVIEW COMMITTEE**

Any applicant for a license shall submit the application to the City Clerk/Treasurer or designated representative who shall forward the application to the Alcohol License Review Committee.

The Alcohol License Review Committee shall:

- (1) Investigate complaints, or initiate its own inquiry, into conditions which may violate provisions of this chapter concerning the operation of any establishment licensed by the City to conduct routine business in the sale of alcoholic beverages as allowed by State law.
- (2) Have the authority to require the licensee to produce records for its review as related to the operation, ownership, or management of the licensed establishment. The committee shall promulgate procedures for documenting and investigating complaints concerning the operation of an alcoholic beverage establishment as well as establishing a

method of documenting violations of this chapter by a licensee or its employees.

(3) Not hinder the police department's ability to enforce criminal violations or city ordinances.

(4) Be responsible for ensuring that written approvals of the police, building, fire and health, and City Clerk/Treasurer, or designated representative, are included as a part of the application indicating the satisfactory compliance with the applicable requirements for each respective department.

(5) Review the information contained within the application for an alcoholic beverage license and submit a written recommendation to the City Council concerning the approval or disapproval of the application before the applicant is submitted to the board.

#### **SECTION 5.2. PUBLIC NOTICE.**

(1) Upon receipt of an application, together with the results of the investigation and recommendations made thereon, the City Clerk/Treasurer shall cause notice to be published one time in a newspaper of general circulation published in the city, stating that the application will be considered at the next regular meeting of the City Council, which notice must be published as aforesaid at least 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 at such time and place all interested persons may appear at said meeting and be heard for or against the application. Such publication shall be at the applicant's expense.

(2) All applicants seeking consent and approval for a city license shall certify to the City that notice of the application stating the day and time it is to be heard and considered at said public hearing by the City Council has been circulated to residents, real property owners and businesses within five hundred (500) feet of the property sought to be licensed by leaving a copy of said notice with each such resident or business or with some person over eighteen (18) years of age at the home of such resident or at each business at least one week before the public meeting at which it is expected to be heard and considered by the City Council.

#### **SECTION 6.2. COUNCIL ACTION ON APPLICATIONS.**

After receipt of written recommendation from the Alcohol License Review Committee, the City

Council may determine whether or not to issue a license to the applicant. In rendering a decision on each application for a license under this chapter, the City Council shall consider, among others, the following factors:

- (1) The effects upon residents, real property owners and businesses within five hundred (500) feet of the property for which a license is sought.
- (2) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.
- (3) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.
- (4) The location of the premises for which a liquor license whose place is sought and the number of establishments presently holding liquor licenses whose place or places of business are within five hundred (500) feet of the property for which a liquor license is sought.
- (5) The compliance by applicant, each partner, member, officer, member of the board of directors, landlord and manager with the laws of the state and ordinances for the City.
- (6) The recommendation of the City of Hanceville Alcohol License Review Committee. Any recommendation factor must be grounded in the protection of the health, safety, and public welfare of the community. Subsequent to the City Council approval, the City Clerk/Treasurer, or designated representative, is hereby authorized to indicate, and communicate in writing, the City's approval for the issuance of a license for the applicant to the State Alcoholic Beverage Control Board. The method for the communication of this approval by the City shall be determined based on the most current mechanism indicated as acceptable by the State Alcoholic Beverage Control Board field office supervisor responsible for Cullman County.

**SECTION 7.2. 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 five hundred dollars (\$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 ordinance.

The City shall retain filing fee to cover the expenses of processing and investigating said application, whether or not the application results in approval or denial, provided however, that the filing fee for special events license applications shall be fifty dollars (\$50.00).

**SECTION 8.2. CITY ALCOHOL LICENSE FEES.**

(1) Each person licensed by the board, who shall engage in the alcoholic beverage, liquor, beer or wine business within the corporate limits, prior to engaging in such business shall pay to the City, for the privilege of so engaging in business, an annual privilege business license fee and further license fees as established below:

(a) **Beer wholesaler license.** Each person licensed as a beer wholesaler under section 28-3A-1 et seq. of the *Code of Alabama 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, according to Section 28-3A-21 of the *Code of Alabama, 1975*. In addition, each licensee will remit to the City Clerk/Treasurer, on forms provided by the City Clerk /Treasurer, each month, the privilege or excise tax levied on the sales of beer by the "Uniform Beer Tax Act," Acts 1982, No. 82-344. Wholesale beer dealers and distributors will not sell to any retail outlet that does not have a current city license.

(b) **Wine wholesaler license.** Each person licensed by the board as a wine wholesaler under section 28-3A-1 et seq., of the *Code of Alabama 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, according to Section 28-3A-21 of the *Code of Alabama, 1975*. In addition, each licensee will remit to the City Clerk/Treasurer, on forms provided by such Clerk/Treasurer, each month, the privilege or excise tax levied on the sales of table wine by the "Alabama Table Wine Act," Acts 1980, No. 80-382. Wholesale wine dealers will not sell to any retail outlet that is not properly licensed by the City.

(c) **Beer and wine wholesale license.** Each person licensed as a beer and wine wholesaler under section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine and beer license by the State of Alabama, according to Section 28-3A-21 of the *Code of Alabama, 1975*. In addition, each licensee will remit to

the City Clerk/Treasurer, on forms provided by such Clerk/Treasurer, each month, the privilege or excise tax levied on the sales of beer by the "Uniform Beer Tax Act," Acts 1982, No. 82-344. In addition, each licensee will remit to the City Clerk, on forms provided by such clerk, each month, the privilege or excise tax levied on the sales of table wine by the "Alabama Table Wine Act." Wholesale beer and wine dealers will not sell to any retail outlet that is not properly licensed by the City.

(d) **Warehouse License.** Each person licensed by the board to receive, store or warehouse alcoholic beverages within the state for transshipment inside and outside the state shall pay to the City an annual license fee of five hundred dollars (\$500.00).

(e) **Club retail liquor license.** Each person licensed by the board to operate a club, class I or II, under section 28-3A-1 et seq. of the *Code of Alabama 1975*, shall pay to the City an annual license fee of two thousand dollars (\$2,000.00) if a class I club, and three thousand dollars (\$3,000) for a Class II Club. In addition, to said stated license fee, each person shall pay to the City, on or before 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 fifteen (15) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(f) **Lounge retail liquor license.** Each person licensed by the board to operate a retail lounge under section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of three thousand dollars (\$3,000.00). In addition to said stated license fee, each 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 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.



(g) ***Retail liquor for off-premises consumption.*** Each person licensed by the board to operate a retail liquor under section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of five thousand dollars (\$5,000.00). In addition to said stated license fee, each 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 fifteen (15) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(h) ***Restaurant Class I retail liquor license.*** Each person licensed by the board to sell alcoholic beverages in connection with the operation of a restaurant under section 28-3A-1 et seq., of the *Code of Alabama, 1975*, shall pay to the City an annual privilege license fee of five hundred dollars (\$500.00). In addition to the 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 subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of fifteen (15) percent of the monthly gross receipts of such business derived from the sale and/or including.

(i) ***Restaurant Class II retail liquor license.*** Each person licensed by the board to sell alcoholic beverages in connection with the operation of a Restaurant Class II shall pay to the City of Hanceville an annual privilege license fee of five hundred (\$500.00) dollars. In addition to the 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 subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of fifteen (15) percent of the monthly gross receipts of such business derived from the sale and/or including.

(j) ***Retail table wine license for off-premises consumption.*** Each person licensed by the board to sell table wine for off-premises consumption under section 28- 3A-1 et seq., of the *Code of Alabama 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, according to Section 28-3A-21 of the *Code of Alabama, 1975*.

**(k) *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 under section 28-3A-1 et seq., of the *Code of Alabama 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, unless such person shall have paid for an on-premises liquor license.

**(l) *Retail beer for on-premises and off-premises consumption.*** Each person licensed by the board to sell beer for on-premises and off-premises consumption under Section 28-3A-1 et seq., of the Code of Alabama 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 for off-premises consumption.*** Each person licensed by the board to sell beer for off-premises consumption under Section 28-3A-1 et seq., of the *Code of Alabama 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. Seventy-five dollars (\$75.00); Section 28-3A-21 of the *Code of Alabama, 1975*.

**(n) *Special retail liquor license for on-premise consumption.*** Each person who has obtained a special retail liquor license from the board under Section 28- 3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City a license fee of two hundred fifty dollars (\$250.00) when the period of use is thirty (30) days or less. Such person shall pay to the City a license fee of three hundred fifty dollars (\$350.00) when the period of use is more than thirty (30) days. In addition to said stated license fee, each such person shall pay to the City percent (50%) of the amount charged for state wine license by the State of Alabama. In addition to the 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 subject month, for the privilege of so engaging in such business in said subject month, an

additional license tax of fifteen (15) percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(o) ***Special events retail license for on-premise consumption.*** Each person who has obtained a special events retail liquor license from the board under Section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City a license fee of two hundred dollars (\$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 event licenses shall be filed with the City Clerk/Treasurer at least forty-five (45) 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 fifteenth 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 fifteen (15) percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. The following shall apply to an applicant for a special event retail liquor license:

1. Submit the required \$50.00 non-refundable filing fee.
2. Receive affirmative recommendation to the city council by the City of Hanceville Alcohol Review Committee.
3. Receive approval from the Hanceville City Council.
4. Pay the required license fee.
5. Each applicant/organization shall not be allowed to apply for more than five (5) special event license in any one calendar year.
6. No sale of alcohol shall be allowed during a special event on any Sunday after 12:01 AM.
7. Applicant must provide adequate security by Alabama Certified Law Enforcement Officers.
8. Applicant must obtain and provide proof of having in full force and effect \$300,000.00 Liability insurance for the Special Event.

(p) ***Manufacturer license.*** Each person who has obtained a manufacturer license

from the board under Section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of three hundred fifty dollars (\$350.00).

(q) **Importer license.** Each person who has obtained an importer license from the board under Section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of three hundred fifty dollars (\$350.00).

(r) **Liquor wholesale license.** Each person who has obtained a liquor wholesale license from the board under Section 28-3A-1 et seq., of the *Code of Alabama 1975*, shall pay to the City an annual license fee of seven hundred fifty dollars (\$750.00).

(2) The term "gross receipts," as used in subparagraph (1) of this Section IX, shall not include any so-called "additional license tax" levied by the City under the provisions of this Section IX 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 January first of each year and shall be delinquent after January thirty-first of the year for which such license is due, and a penalty of ten (10) percent of the license amount shall be collected during February- March; twenty (20) percent during April-June; thirty (30) percent during July-September; and forty (40) percent October-December. In addition, such person must pay a two hundred dollar (\$200.00) citation fee. There shall be no prorating 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 taxes levied by said schedule shall be due the twentieth day of the calendar month specified in each levy and shall be delinquent if not reported and paid by such date.

(4) All taxes are to be reported and paid by the twentieth day of the calendar month (beginning with the November 2012 tax cycle). 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 (3) percent per month, or fraction thereof, from the date the payment of such tax became delinquent; a penalty of fifteen (15) percent of the amount of the tax shall be paid for any late payment thereof and a

penalty of thirty (30) percent of the amount of the tax for the second late payment. If there is a third late payment, the Council may revoke the license or impose a penalty of thirty (30) percent of the amount of the tax. In addition, a citation fee of one dollar and fifty cents (\$1.50) shall be added; which interest, penalty, and citation fee must be paid by such person.

**SECTION 9.2. ADDITIONAL REGULATIONS CONCERNING THE SALE OF LOUNGE  
RETAIL LIQUOR LICENSE AND RETAIL LIQUOR FOR OFF-PREMISES  
CONSUMPTION LICENSE**

No facility or property shall be authorized for the sale of lounge retail liquor for on-premises consumption where the building in which the premises are located is less than five (500) feet from another premises that has previously been authorized and is currently licensed for the sale of lounge retail liquor for on-premises consumption. The method of measurement used in determining any distance requirements of this section shall be the same as found in Article IX, Section 4 of this Ordinance.

**SECTION 10.2. 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 engaging in activity with respect to which a license or excise tax under this article is imposed. Such a bond must remain in place continuously during the entire period that the person is subject to a license fee, privilege tax, or excise tax imposed by this article.

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/Treasurer, or the designated representative. Moreover, where such a bond is required by this section, no privilege license shall be granted, renewed, maintained, or allowed to be transferred where the City Clerk/Treasurer or the 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 follows:

*STATE OF ALABAMA*

*CITY OF HANCEVILLE*

*ALCOHOL ORDINANCE TAX OR FEE BOND*

*That \_\_\_\_\_ hereinafter called Principal and \_\_\_\_\_ as Surety are held and firmly bound unto the City of Hanceville, 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, firm by these presents. The condition of the foregoing is such, however, that WHEREAS, as one of the conditions precedent to the consent and approval of the City Council with respect to the issuance of an alcoholic beverage license, or to the granting, renewal, maintenance, transfer, or allowance of a privilege license, the Principal is required to deliver to the City of Hanceville, 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 City Ordinances or any amendments thereto, and any other amount which may become due to the City of Hanceville, 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 Hanceville now in force, or that may hereafter be adopted and will promptly pay to said City of Hanceville, 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/Treasurer of the City of Hanceville or the designated representative. This notice shall provide for 30 days' notice to the City of Hanceville 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 Hanceville, Alabama, on this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.*

*Principal Surety*

*By: \_\_\_\_\_ By: \_\_\_\_\_*

*Its: \_\_\_\_\_ Its: \_\_\_\_\_*

**SECTION 11.2. REPORTS OF BUSINESS DONE AND TAX DUE**

The person liable for any license tax or other tax imposed by this chapter shall file with the City Clerk/Treasurer or duly authorized representative, on or before the final date on which the tax may be paid without a penalty, such report or reports in such form as the City Clerk/Treasurer or duly authorized representative, may prescribe, evidencing the amount of business done and the amount of license tax or other tax due thereon, together with full payment for any tax liability. Any failure to comply with this section shall be considered a violation of this Ordinance and be punishable as such.

**SECTION 12.2. ALABAMA RESPONSIBLE VENDOR ACT**

Section 28-10-1 thru 28-10-8, Code of Alabama (1975) are hereby adopted by reference, and made a part of this ordinance, as if fully set forth herein.

- (1) Each business requesting to sell alcoholic beverages within the City of Hanceville must obtain Business Certification through the Alabama Responsible Vendor Program within one hundred (120) days of license approval by the board.
- (2) Upon a business becoming de-certified from the Alabama Responsible Vendor Program, the city privilege license shall be suspended or revoked for a time no more than one (1) year.

**SECTION 13.2. REQUIREMENTS OF FINANCIAL RESPONSIBILITY BY LICENSEES**

1. All retail licensees of the City of Hanceville shall comply with the following conditions of requirements of Financial Responsibility:

A. Prior to the issuance of any retail alcoholic beverage license or renewal of existing alcoholic beverage license each applicant must provide the City of Hanceville with sufficient information that it has liquor liability (dram shop) insurance coverage in the amount of at least \$300,000.00.

This information may be shown as follows:

1. A coverage sheet from a reputable insurance company showing that the applicant has liquor liability (dram shop) insurance of at least \$300,000.00 for each incident and that coverage is valid from January 1st to December 31st.

2. No application for a new retail license or the renewal of an existing retail license shall be approved unless the application shows affirmatively that the requirements contained herein are met. Failure to comply with the requirements contained herein shall be cause for suspension or revocation of the license.

3. A retail licensee shall notify the City of Hanceville at any time that its net worth falls below \$300,000.00 or that its liquor liability insurance is canceled.

In either of such events, the licensee must comply with the requirements of this Financial Responsibility regulation within 15 days or alternatively, the said licensee shall be suspended or revoked. Any licensee which has been suspended for failure to abide by this regulation shall not be reinstated until compliance with Section 1 is met.

### **ARTICLE III. VIOLATIONS; PUNISHMENTS; GENERAL PROVISIONS**

#### **SECTION 1.3. VIOLATIONS DECLARED MISDEMEANOR**

Any person who commits a violation of this Ordinance as defined herein shall be guilty of a misdemeanor and, unless otherwise provided herein, shall, upon conviction or adjudication of guilt, be punished in accordance with the provisions of City of Hanceville ordinances.

SECTION 2.3. In addition to any other penalties imposed by law for violations of any sections of this Ordinance, the City shall revoke the privilege license issued pursuant to this Ordinance 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 Ordinance, Title 28 Code of Alabama, or the Alcohol Beverage Control Board Rules and Regulations, as amended.

#### **SECTION 2.3. APPLICATION OF MUNICIPAL CODE AND ORDINANCES**

The City of Hanceville ordinances, shall apply in all respects to any violations of this Ordinance.

#### **SECTION 3.3. SEVERABILITY**

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

adopted.

**SECTION 4.3. CONFLICTS WITH STATE STATUTES**

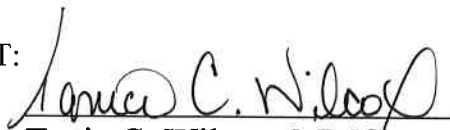
This Ordinance shall be deemed cumulative with and supplemental to any and all statutes of the State of Alabama regarding the subject matter hereof and to be subordinate to same and in no manner intended to supersede any such statutes of the State of Alabama. Any provision hereof in conflict with any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

**SECTION 5.3. EFFECTIVE DATE**

This Ordinance shall be effective immediately 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.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF HANCEVILLE, ALABAMA THIS 26<sup>TH</sup> DAY OF MAY 2022.

  
\_\_\_\_\_  
Mayor Kenneth Nail

ATTEST:   
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Tania C. Wilcox, MMC