

**CITY OF HALEYVILLE, ALABAMA
ALCOHOLIC BEVERAGE ORDINANCE
ORDINANCE # 2010-____**

**ARTICLE I.
ALCOHOLIC BEVERAGES**

Section 1. Short Title.

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

Section 2. 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 alcoholic beverages. This article shall be construed as an exercise by the city of the police power of the state delegate to the city, in the regulation of traffic in alcoholic beverages within the city as provided by state law.

Section 3. Definitions.

Whenever used in this article, the definitions set forth in the Code of Ala. 1975, § 28-3-1 are hereby adopted by reference, and made a part hereof as if fully set forth herein unless otherwise modified 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 thirteen and nine-tenths percent by volume, by whatever name the same may be called.

Beer or malt or brewed beverages sold by the holder of a retail beer license for off-premises consumption pursuant to § 28-3A-17 shall only include 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 five percent alcohol by weight and six 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 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 funded partially or completely by federal, state, or local government revenue (i.e., Head Start Programs, Boys & Girls Club, etc.). The definition of "child development facility" shall also include any day care center licensed by the Alabama Department of Human Resources.

Church: 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 on a regular weekly or monthly basis 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 Alcoholic License Fee: A fee charged by the city to a person that has been granted approval by the state alcoholic beverage control board for the privilege of selling alcoholic beverage within the city limits as herein enumerated and defined.

Club: A corporation or association organized or formed in good faith or authority of law and otherwise meeting the requirements of State law and further having premises which meet 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.
- (2) A minimum of two (2) off-street paved and lined parking space for each one hundred (100) square feet of licensed area, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.

- (3) A premises licensed for a Club (Class I or II), shall not be eligible for any other License.
- (4) A Club may not admit any person under the age of 21 years of age.

Such establishment shall otherwise meet the minimum requirements of the Alabama Alcoholic Beverage Control Board for a Club, Class I or Class II as defined by §28-3-1(7), Code of Alabama, 1975.

City Alcohol License Review Committee: The city Clerk-Treasurer, or designated representative; the chief of police, or designated representative; the fire chief, or designated representative; planning commission chairman, or designated representative: and three other members to be appointed by the city council.

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.

Convenience Store: A small store that is engaged primarily in the retail sale of motor fuel and a limited quantity and variety of consumable items in their original containers for off-premises consumption including such items as convenience items, snacks, grocery items. A convenience store shall not be considered a specialty beverage store and/or package store if no more than 25 percent of the floor space, excluding coolers and dry storage area, is dedicated to the public display of alcoholic beverages. The term does not include any of the following:

- a. A large store engaged primarily in, and deriving a substantial amount of gross revenue from, the retail sale of food for off-premises consumption, commonly known as a grocery store or department store.
- b. A specialty store engaged primarily in, and deriving a substantial amount of gross revenue from, the retail sale of beer or wine for on-premises or off-premises consumption.

Dancing: Any establishment which seeks to allow or provide space for dancing, other than that prohibited in Section 10 (ten) and which allows for the sale or for on premise or off premise consumption of liquor, wine or beer shall be subject to the license requirements and zoning restrictions provided for a Lounge, Class I or a Club Class I and II. Said establishment will be permitted in E-1 Zone.

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 state alcoholic beverage control board.

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

Golf Course: A tract of land of at least 75 acres laid out for at least eighteen (18) holes for playing the game of golf and improved with tees, greens, fairways, and hazards which is currently in use and operating as such. The term does not include a miniature golf facility, where all holes are separated by barriers and the only clubs used on the course are putters, or a par three course designed for use with irons and putters only.

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 10,000 square feet.

Hotel/Motel: A public inn or lodging house of forty or more bedrooms where transient guests are lodged for pay **and which is subject to the taxation as provided in** § 40-12-115, Code of Alabama 1975, shall be deemed for the purposes of this ordinance to be engaged in the business of keeping a **hotel/motel**.

License: A retail alcoholic beverage license or any other license issued by the state alcoholic beverage control board requiring consent and approval of the city council with the exception of licenses issued by the state alcoholic beverage control board for the sale of beer.

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 Class I: Any place or premises in which liquor or wine or beer is offered for sale or consumption within the building in which the establishment is located, otherwise meeting the requirements of State law, 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.
- (2) A minimum of two (2) off-street paved and lined parking space for each one hundred (100) square feet of lounge area, 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.

(4) A premises licensed for a Lounge Retail Liquor (Class I), shall not be eligible for any other license.

(5) A Lounge may not admit any person under the age of 21 years of age.

Lounge Class I Incidental To Operation of Hotel/Motel: Any place or premises in which liquor or wine or beer is offered for sale or consumption within the building in which the establishment is located, otherwise meeting the requirements of State law, which is operated in conjunction and is incidental to the operation of a hotel/motel as herein defined, by a responsible person of good reputation and which meets the following additional requirements:

(1) Is wholly contained inside the hotel/motel structure which has for rent a minimum of forty (40) rooms/units and whose sales during any 90-day period, the gross receipts from the serving of all alcohol shall constitute no more than 20 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for rooms and food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the City during regular business hours as the City Clerk-Treasurer, or duly authorized representative, may request.

(2) A space for at least five hundred (500) square feet on one floor in one room equipped with tables and chairs to accommodate seating of at least twenty five (25) persons at one time.

(3) A minimum of two (2) off-street paved and lined parking spaces for each one hundred (100) square feet of lounge area, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.

(4) Such establishment shall otherwise meet the minimum requirements of the Alabama Alcoholic Beverage Control Board for an on premises lounge retail liquor license.

(5) A premises licensed for a Lounge Retail Liquor (Class I), shall not be eligible for any other license with the exception of a Restaurant (Class I or II).

(5) A Lounge may not admit any person under the age of 21 years of age.

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.

Merchandise Store with Incidental Table Wine Sales: An establishment principally operated for the sale of apparel, home decor, art, jewelry, antiques, or specialty gift merchandise, and that also offers the sale of a diversified selection of both domestic and imported table wine, but not beer or liquor, in unopened containers for off-site consumption. Such establishments may apply for a license for retail table wine for off-premises consumption. The sale of alcoholic beverages shall be no more than ten percent of its gross annual sales, and no more than 15 percent of the public floor space may be dedicated to the public display of alcoholic beverages.

In addition, the owner of a merchandise store with incidental table wine sales may apply with the city for an on-premises wine license for the purpose of offering up to two wine tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge. In such case, the establishment may also apply for a retail table wine license for on-premises consumption.

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.

Package Store: An establishment principally operated for the sale of alcohol, in unopened containers for off site consumption, including beer, wine and/or liquor. An establishment organized as a specialty wine and beer establishment is specifically excluded from the requirements of a Package Store. In addition to all other requirements of law or rules and regulations of the ABC Board, a Package Store shall comply with the following conditions:

(1) The licensee shall have a minimum of 500 square feet of floor space for the display and sales 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/or which are used for office space, storage or restroom facilities.

(2) Notwithstanding requirements of the ABC Board or any other provisions contained herein to the contrary, the licensee is authorized to sell only snack and delicatessen items, cheeses, beverage containers, tobacco products, ice, fruit juices and mixers. The licensee shall not sell general grocery items, novelties, clothing or any other items of general merchandise.

(3) Any interior door, window or passageway which opens or may be opened into an adjoining building may be used only by the licensee and its employees. Such interior openings must be unavailable to the patrons or customers of the licensee and such passageways must be clearly marked “employees only.”

(4) The licensee shall at all times have in its possession a physical inventory of liquor and/or wine having a minimum wholesale cost of \$5,000.00. The inventory of liquor and/or wine must have been produced by at least two distilleries and two wineries.

(5) The licensee shall not advertise or identify its premises, prices or location by the use of flashing or blinking signs.

(6) Licensee must comply with Section 16 regarding sign restrictions.

(7) A Package may not admit any person under the age of 21 years of age.

The term Package Store shall encompass any store licensed for off premise consumption of liquor and any combination of wine and/or beer.

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 clubs, shall have jurisdiction over the possession and sale of liquor therein.

Person in charge (PIC): A person, whether owner, partner, officer, or employee of the alcoholic beverage licensee, who is designated by the licensee as a responsible party for the licensee in ensuring compliance with the law and regulations of the Code of Alabama, state alcoholic beverage control board, and the ordinances of the city as apply to the operation of a business having retail sales of alcoholic beverages.

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

provided, that such term shall not mean or include premises which have been duly licensed by the city for sale thereon of such beverages.

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:

- (a) A dining space containing 1,000 square feet or more on one floor in one room shall have a mandatory class I designation.
- (b) The dining room shall be equipped with tables and chairs accommodating at least 50 persons at one time and adequately air conditioned and heated as appropriate.
- (c) All spaces of a class I restaurant must comply with the adopted building code occupancy requirements.
- (d) 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.
- (e) At least two meals per day shall be served at least five days a week, with the exception of holidays, vacations and periods for redecorating.
- (f) Such place shall meet the minimum requirements for a state alcoholic beverage control board on-premises license.
- (g) The serving of food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines or other alcoholic beverages being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute at least 60 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the city during regular business hours as the city Clerk-Treasurer, or duly authorized representative, may request.

Restaurant, 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:

- (a) A dining space of less than 1,000 square feet on one floor in one room.
- (b) Said dining room shall be equipped with tables and chairs accommodating a number of persons meeting with all the adopted building code occupancy requirements.
- (c) The dining space shall be adequately air conditioned and heated as appropriate.
- (d) 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.
- (e) At least one meal per day shall be served for each day open.
- (f) Such place shall meet the minimum requirements for a state alcoholic beverage control board on-premises license.
- (g) 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 90-day period, the gross receipts from the serving of meals and food shall constitute at least 60 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the city during regular business hours as the city Clerk-Treasurer or duly authorized representative, may request. Examples, without limitation, of a class II restaurant are as follows:
 - 1. A place of business meeting all other required criteria which may not be open for all meals of each day.
 - 2. A place of business meeting all other required criteria which may not be open five days a week.
 - 3. Delicatessen, dinner theaters, cafes, eateries, bistros and similar small establishments.
 - 4. A place of business meeting all other required criteria but also meeting the definition of golf course, public or private, who may also sell food and alcoholic beverages on the golf course, with the following exceptions:
 - i. No minimum meal per day requirement; and

- ii. Food sales in any 90-day period must equal 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.

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

- (1) Retail table wine for off-premises consumption; and
- (2) Retail beer license for off-premises consumption.
- (3) A Specialty Beverage Store may not admit any person under the age of 21 years of age.

In addition, the owner of a specialty beverage store may apply with the city for an on-premises beer and wine license for the purpose of offering up to no more than two wine/beer tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge.

A premise licensed for a Specialty Beverage Store shall not be eligible for any other license except as contained in this paragraph. Any store which applies for the sale of liquor shall be required to comply with requirements of a Package Store as contained in its Ordinance.

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

- (1) Retail table wine [license] for off-premises consumption;
- (2) Retail beer license for off-premises consumption;
- (3) Retail table wine license for on-premises consumption; and
- (4) Retail beer license for on-premises consumption.
- (5) A Specialty Wine and Beer Establishment may not admit any person under the age of 21 years of age.

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

A specialty wine and beer establishment must also offer incidental food service, including the sale of food for on-premises consumption and the sale of containerized, gourmet foods for off-

premises consumption, but not in such a manner that the establishment will constitute a class I or class II restaurant.

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

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

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

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. Location of Premises; Zoning Districts; Near Church, School or Residential Neighborhoods.

(a) City licensed premises shall be located only within the following zoning districts as designated in the sections specifically referring to specific licenses, and in accordance with other applicable provisions of City Zoning Ordinance:

B-1 (Business District—Neighborhood Business)

B-2 (Business District--Highway Commercial)

B-3 (Central Business District)

E-1 (Entertainment District)

R-1 (Residential/Conditional – Only Golf Courses as defined herein may be licensed in this zoning district.)

(b) In addition to all other regulations and restrictions, no facility or property located in a **B-1 zone** shall be authorized for on-premises sale or off-premises sale of alcoholic beverages, except for the following:

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

(bc) In addition to all other regulations and restrictions, no facility or property located in a **B-2 zone** shall be authorized for on-premises sale or off-premises sale of alcoholic beverages, except for the following:

(1) Class I restaurants licensed to sell alcoholic beverages for on-premises consumption;

(2) Class II restaurants licensed to sell alcoholic beverages for on-premises consumption;

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

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

(5) Package Store licensed to sell beer, wine and/or liquor for off-premise consumption.

(6) Specialty beverage stores with respect to beer and/or table wine;

(7) Merchandise store with incidental table wine sales;

(8) Specialty wine and beer establishment; and

(9) Persons holding a special events retail license for on-premises consumption.

(10) Persons holding a Class I Lounge License incidental to the operation of a Hotel or Motel as defined herein.

(cd) In addition to all other regulations and restrictions, no facility or property located in a **B-3 zone** shall be authorized for on-premises sale or off-premises sale of alcoholic beverages, except for the following:

(1) Class I restaurants licensed to sell alcoholic beverages for on-premises consumption;

(2) Class II restaurants licensed to sell alcoholic beverages for on-premises consumption;

(3) Specialty wine and beer establishment; and

(4) Persons holding a special events retail license for on-premises consumption.

(de) In addition to all other regulations and restrictions, no facility or property located in an ***E-1 zone*** shall be authorized for on-premises sale or off-premises sale of alcoholic beverages, except for the following:

- (1) Class I restaurants licensed to sell alcoholic beverages for on-premises consumption;
- (2) Class II restaurants licensed to sell alcoholic beverages for on-premises consumption;
- (3) Class I lounge licensed to sell alcoholic beverages for on-premises consumption;
- (4) Class I club licensed to sell alcoholic beverages for on-premises consumption;
- (5) Class II club licensed to sell alcoholic beverages for on-premises consumption.

No facility or property shall be authorized for the sale of lounge retail liquor for on-premises consumption or club retail liquor for on-premises consumption where the building in which the premises are located is less than five hundred (500) feet from any building which is a Church, School, or Child Development Facility. The method of measurement and the treatment of outdoor areas used in determining any distance requirements of this section shall be the same as found in Article I, Section 4 (i) of this Ordinance. The aforesaid distance restrictions shall not apply where the Church, School, or Child Development Facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of twelve (12) months.

(ef) In addition to all other regulations and restrictions, no License in a residential zone or in a planned development district, with the exception of a golf course, shall be authorized for on-premises sale or off-premises sale of alcoholic beverages (unless the same has been approved as a conditional use by the Haleyville Planning Commission, as may be required by the Haleyville Zoning Ordinance.)

(fg) In addition to all other regulations and restrictions, and 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 facility or property is less than 300 feet from any church, public or private elementary, intermediate, middle or junior high, high school or child development facility. The aforesaid distance restriction in this subsection shall not apply in the following enumerated cases:

- (1) Where the facility or property is located in a ***B-1, B-2 or a B-3 zoning*** district, and the licensee is anything other than a Package Store or a Specialty Beverage Store and the facade on the lot frontage of the facility or property is not more than 100 feet from the church, school, or child development facility.
- (2) Where (i) the facility or property is separated from the church, school, or child development facility by a street or highway having four or more traffic lanes, not including any lanes that are turning lanes, service lanes, and/or hazard lanes, (ii) at least

four of the traffic lanes that separate the licensed premises from the church, school, or child development facility extend continuously and together for more than one-half (1/2) mile before any one of the lanes terminates or becomes a turning lane, service lane, and/or hazard lane, and (iii) the minimum distance between the licensed premises and the church, school, or child development facility building is at least 200 feet;

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

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

(1) When measuring from a church, school, or child development facility, the closest exterior wall of the closest building in the church, school, or child development facility complex wherein an essential function or activity of the church, school, or child development facility is carried on shall constitute the beginning point for measurement.

(2) When measuring from the facility or property, the closest point on the exterior wall of the building occupied by the person seeking to sell alcoholic beverages shall be used for measurement purposes if the building is occupied solely by that person; otherwise, such measurement shall be made from the closest point of the person's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points.

(i) When measuring from a church or school, the closest exterior wall 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. If an outdoor portion of a building containing a licensed premise, such as a patio, is requested to be licensed, then the exterior boundary of the outdoor area to be so used shall be considered part of the exterior wall for measurement purposes. 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.

(j) In instances where the council has delegated the authority to make such a determination to an agent, any person aggrieved by the decision of the agent may appeal the agent's decision to the council. Such an appeal must be filed in writing within 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 14 days after the appeal is received by the Clerk-Treasurer. 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. Maintenance of Order; Report of Violation.

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

Section 6. Offenses in Public.

(a) It shall be unlawful for any person to drink, sell, serve, dispense or give away, or attempt to drink, sell, serve or give away, any liquor, wine or malt or brewed beverages, while upon any street, alley, sidewalk, public easement, rights-of-way, parking lots designed for use by the general public or in any public building or upon any public property, or while in any other public place in the city. As used in this section, the term "public place" shall mean and include any place or gathering which the public generally attends or is admitted to, either by invitation, common consent or right or by the payment of an admission or other charge, and, without limiting the generality of the foregoing, shall include public parks, city hall, library, school buildings auditoriums, any store or place where amusement and any high school athletic contest; provided, that such term shall not mean or include premises which have been duly licensed by the city as provided by the Code of Alabama, 1975.

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

(c) It shall be unlawful for patrons, customers, invitees or guests to bring alcoholic beverages onto premises licensed to do business by the city, whether or not the business is licensed to sell or furnish alcohol.

Section 7. Minors; Drunkards, Mentally Challenged/Insane Persons – Offenses by Sellers or Agents.

1. (a) 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 mentally challenged person, to any minor, to any habitual drunkard or person of known intemperate habits.

(b) 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.

- (c) 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.
- (d) The commission of any offense under this section shall be considered a violation of this Ordinance and upon conviction of the same shall not be allowed to be employed on a City licensed premises for a period of one year.

Section 8. Same- Offenses Generally.

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

1. (a) For any minor person, directly or indirectly, to purchase any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.
- (b) For any minor person to possess or to consume any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.
- (c) For any person to sell furnish, give to or purchase for any minor person any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to sell, furnish, give to or purchase for any minor person any of said beverages.
- (d) For any person to hire, employ or allow any person 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) year 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.
- (e) For any minor person, directly or indirectly, to falsely represent that such person is not a minor or is not under twenty-one (21) years of age, by means of which false representation such person buys, receives or otherwise obtains, or attempts to buy, receive or otherwise obtain any malt or brewed beverages, any wine or liquor or any alcoholic or intoxicating beverages.
- (f) For any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not twenty-one (21) years of age, by means of which false representation such person aids or abets or attempts to aid or abet, such minor

person to buy, receive or otherwise obtain any malt or brewed beverage, any wine or liquor or any alcoholic or intoxicating beverages.

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

State Law References: Sales to underage persons, Code of Ala. 1975, § 28-3A-25(3).

Section 9. Authorized Hours.

It shall be unlawful for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve, dispense or offer for reward, or to offer to serve or dispense for reward any liquor, wine, or beer, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 12:00 a.m. and 6:00 a.m. on Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 12:00 a.m. on Sunday of any week and 6:00 a.m. of the following Monday.

Section 10. Regulation of Conduct in Clubs, Lounges, 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, lounge 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:

- (a) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashier or any lewd or indecent conduct.
- (b) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (c) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.
- (d) Acts involving the displaying of the anus, vulva or genitals.
- (e) 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.
- (f) Permitting the showing of films, still pictures, electronic reproductions or other visual reproductions depicting:
 - 1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - 2. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals.

3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. 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.

(g) 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.

(h) 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.

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

Section 11. Records; Reports.

It shall be the duty of each person subject to the license tax imposed by this article to keep full and complete records of all purchases, sales and deliveries of alcoholic beverages, from which records can be readily obtained information as to the correct amount of license tax due the city. As a part of such records, each wholesaler shall keep an individual ledger or card account for each records, each wholesaler shall keep an individual ledger or card account for each of his customers, and said ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered, together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by his authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom he purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof and the number of cases purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than three years succeeding said calendar year. All of such records shall be open for inspection and audit at the licensed premises within the city during such regular business hours as the city Clerk-Treasurer, or duly authorized representative, may request. Failure to keep any of the records required by this section, or elsewhere in this article, or by any amendment thereto, or refusal to make the same available to the city Clerk-Treasurer, or duly authorized representative, shall constitute grounds for revocation of any license issued under this article. In addition thereto, in January of each year, each person who is obligated to pay a privilege or excise tax to the city based on the gross receipts of the business (pursuant to section **6-79** _____) shall file an annual report, made under oath, showing the gross receipts of the business for each month during the prior calendar year.

Section 12. Packaging of Beverages.

Retail licensees for off-premises sale of individual or packages of six or less alcoholic beverages must place each container thereof in a bag, box or other similar opaque covering prior to the customer's leaving the licensee building used for alcoholic beverage sales.

Section 13. 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 14. Open Containers.

It shall be unlawful for any person to or allow another person to:

- (a) 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.
- (b) Possess, consume or otherwise use any open container containing alcoholic beverages while in any City licensed premises which is licensed for the sale of alcoholic beverages off premises only or who is 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.
- (c) Possess or use any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, and school stadium or school recreational facility.
- (d) Possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag or other receptacle not in 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.
- (e) The commission of any offense under this section shall be considered a violation of this Ordinance.

Section 15. Discrimination Prohibited.

It shall be unlawful for any alcoholic beverage licensee of the city to discriminate against any person with respect to the sale of any food, beverage, product, cover charge, or admission charge based upon race, color, creed, or sex. It is specifically provided that no alcoholic beverage licensee shall have or permit any entertainment, show, or presentation on the licensed premises to which any person is excluded based upon race, color, creed, or sex. This section shall apply to

the licensee, manager, to any person in charge of any licensed premises, and to any employee of the licensee authorizing, permitting, or committing any violation hereof.

Section 16. Sign Restriction.

(a) It shall be unlawful for any person to display any sign (electronic, painted or otherwise) advertising alcoholic beverages as enumerated and defined in this ordinance, outside any place of business or inside any place of business in a position visible from the outside of the building, except on the rear most wall. The rear most wall is defined as that wall furthest and opposite to the entrance to said business. This prohibition does not apply to aisle or floor merchandise displays not generally visible from outside of the building.

(b) It shall be unlawful for any person 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 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. This limitation is in addition to the requirements contained in the preceding paragraph (a).

(c) Displaying of advertising in violation of this section shall be considered a violation of this ordinance and punishable in accordance therewith.

Section 17. Alcohol License Review Committee Created; Powers and Procedures.

(a) There is hereby created for the purpose of assisting and advising the city council in the review of applications for city licenses, and inquiry and recommendation concerning complaints or disciplinary action of a city licensee, a committee to be known and designated as the **City Alcohol License Review Committee** to be composed as follows: The city Clerk-Treasurer, or designated representative; the chief of police, or designated representative; the fire chief, or designated representative; **Planning Commission Chairman**, or designated representative; and three other members to be appointed by the city council. The city Clerk-Treasurer, or designated representative, shall act as liaison to the city council on behalf of the committee. The committee shall hold meetings as are necessary to consider appeals by applicants for alcohol licenses, resolve matters of public concern, or make inquiry into the compliance of a current city licensee with this article and other provisions of this article.

(b) The committee shall review the information contained within the application for an alcoholic beverage license and shall submit a written recommendation to the city council concerning the approval or disapproval of the application before the applicant is submitted to the board.

(c) The committee shall investigate complaints, or initiate its own inquiry, into conditions which may violate provisions of this article concerning the operation of any establishment

licensed by the city to conduct routine business in the sale of alcoholic beverages as allowed by state law.

(d) The committee shall have the authority to require the licensee to produce 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 article by a licensee or its employees.

(e) The review committee shall operate under bylaws created and approved by the city council.

Section 18. Alcohol License Tax Bond. and Liability Insurance.

(a) It shall be the duty of each person subject to a license fee, privilege tax, or excise tax imposed by this article to deliver to the city a surety bond conditioned to promptly pay to said city all such amounts as are required to be paid to said city backed by a State Licensed Insurance or Bonding Company and approved by the City Clerk-Treasurer 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.

(b) With respect to those instances where the consent and approval of the city council is required with respect to the issuance of an alcoholic beverage license, such consent and approval will not be granted where the bond described in this section has not been delivered to the city Clerk-Treasurer, or the Clerk-Treasurer's designated representative. Moreover, where such a bond is required by this section, no privilege license shall be granted, renewed, maintained, or allowed to be transferred where the city Clerk-Treasurer or his/her authorized representative, has not received or does not hold a valid and binding bond as required by this section.

(c) Said bond shall be posted in substantially the same manner and form as shown below:

CITY OF HALEYVILLE

ALCOHOL ORDINANCE TAX OR FEE BOND

That _____, hereinafter called Principal, and _____, as Surety, are held and firmly bound unto the City of Haleyville, Alabama, a municipal corporation, in the sum of _____, for the payment of which well and truly to be made we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing is such, however, that WHEREAS, as one of the conditions precedent to the consent and approval of the City Council with respect to the issuance of an alcoholic beverage license, or to the granting, renewal, maintenance, transfer or allowance of a privilege license, the Principal is required to deliver to the City of Haleyville, Alabama, a bond conditioned to promptly pay to said City all such amounts as are required to be paid to said City under the terms of Ordinance No. _____, or any amendment thereto, and any other amount

which may become due to the City of Haleyville, 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 Haleyville now in force, or that may hereafter be adopted, and will promptly pay to said City of Haleyville, 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 Haleyville, or his/her designated representative. This notice shall provide for 30 days' notice to the City of Haleyville 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 Haleyville, Alabama on this the _____ day of _____, 20 _____.

(Seal)

Principal

BY _____

SEAL

(Seal)

Surety

BY _____

TITLE

(d) It shall be the duty of every person as a condition precedent to the issuance of a retail alcoholic beverage license to keep and maintain a policy of alcohol liability insurance and a policy of premise liability each in the aggregate limit of not less than one million dollars for each policy.

Section 19. Additional Regulations Concerning the Sale of Retail Liquor for Off-Premises Consumption.

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

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

(2) In addition to all other regulations and restrictions, no facility or property shall be authorized for the sale of retail liquor for off-premises consumption where the facility or property is less than 500 feet from another facility or property that (i) has previously been authorized for the sale of retail liquor for off-premises consumption and (ii) is currently licensed for the sale of retail liquor for off-premises consumption. When measuring from

these facilities or properties, the closest point on the exterior wall of the buildings occupied by the persons selling or seeking to sell alcoholic beverages shall be used for measurement purposes. If a building is not solely occupied by that person, then the measurement shall be made from the closest point of that person's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points. A state liquor store (i.e., a store operated by the Alabama Alcoholic Beverage Control Board which offers the retail sale of liquors for off-premises consumption) shall not be construed as "another facility or property" pursuant to this subsection.

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

(1) In addition to all other regulations and restrictions, no facility or property holding a Club Liquor Retail License or a Lounge Retail Liquor License, Class 1 shall be authorized for the sale of retail liquor for on-premises consumption where the same is situated in any zoning district other than a E-1 zone. The sale of retail liquor for on-premises consumption under such license shall only be permitted in a E-1 zone subject to such other rules and regulations as prescribed by law, such as conditional use regulations prescribed by the city zoning ordinance. This subsection (b)(1) shall not apply to class I or class II restaurants, hotels, motels, or to country clubs/golf courses.

(2) In addition to all other regulations and restrictions, and subject to exceptions contained in this subsection, no facility or property shall be authorized for the sale of retail liquor for on-premises consumption where the building in which the premises are located is less than 500 feet from any church, public or private elementary, intermediate, middle or junior high, high school, or child development facility. The method of measurement shall be the same method as found in section 4(i). The aforesaid distance restriction in this subsection shall not apply where (i) the premises is separated from the church, school, or child development facility by a street or highway having four (4) or more traffic lanes, not including any lanes that are turning lanes, service lanes, and/or hazard lanes, (ii) at least four of the traffic lanes that separate the premises from the church, school, or child development facility extend continuously and together for more than one-half mile before any one of the lanes terminates or becomes a turning lane, service lane, and/or hazard lane, and (iii) the minimum distance between the premises and the church, school, or child development facility building is at least 200 feet. The aforesaid distance restrictions in this subsection shall also not apply where the church, school, or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months. This subsection shall not apply to class I restaurants, class II restaurants, or hotels, motels or country clubs/golf courses.

(c) [Appeals.] In instances where the council has delegated the authority to make such a determination to an agent, any person aggrieved by the decision of the agent may appeal the agent's decision to the Council. Such an appeal must be filed in writing within 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 14 days after the appeal is received by the Clerk-Treasurer. 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.

ARTICLE II. LICENSE

Section 20 Applicability When Council Approval Required.

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

Section 21. Required; Transfer, Suspension; Display.

(a) It shall be unlawful for any person to have in such person's possession any alcoholic beverages, within the city, for the purpose of sale, or to sell, or keep for sale, or offer for sale, any alcoholic beverages, without having first procured from the city a privilege license and the state alcoholic beverage control board a liquor license thereof. Licenses issued under this article 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.

(b) In the event of a change of ownership of a licensed establishment, the current licensee and buyer shall be required to complete the "City of Haleyville Transfer Request Alcoholic Beverage License" form 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. The buyer and seller must also complete a transfer agreement with the state alcoholic beverage control board prior to or the day of the sale of the business; and additionally, the party to whom the licensed establishment is to be sold must file with the city a complete application city license within 30 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.

(c) Licenses issued by the city shall be deemed to expire, terminate, or otherwise be void when there is a substantial change in ownership in a licensed establishment, or when a licensed establishment is leased, rented, or abandoned, or when possession is otherwise surrendered to another party. Provided, however, that an applicant for a new license at a currently licensed

establishment may be allowed to operate the establishment for a period not to exceed 60 days if said applicant is in compliance with subsection (b) of this section. In such case, the original licensee shall continue to be responsible for the conduct, operation and city tax liabilities of the establishment until such time as the city, in the new licensee's name, issues a license.

(d) Upon the death of an individual licensee, sale of the licensed establishment, or temporary closing of the licensed establishment for a period in excess of 30 days, the city license to sell alcoholic beverages shall be immediately returned to the city Clerk-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.

(e) For the purposes of this section, and to assist in defining a substantial change in ownership, the sale or transfer of 25 percent or more of a corporation's stock, an LLC, partnership or sole proprietorship, shall constitute a substantial change in ownership of the licensee.

(f) The city shall have the right to revoke any privilege license issued by the city for any violation of this ordinance or the state alcoholic beverage control board rules and regulations, after notice and opportunity for a hearing before the city council.

(g) Every privilege license issued by the city to conduct normal and routine business and license issued by the state alcoholic beverage control board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the licensed premises.

(h) Each business that changes its name shall provide the city Clerk-Treasurer the new information within 30 days of the name change.

Section 22. Application for Lounge, Club, Restaurant, Etc., License; Deposit.

Each applicant seeking the consent and approval of the city council for lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license or other license issued by the state alcoholic beverage control board shall make application to the city council as required in this article. Said application shall be upon an appropriate form supplied by the city Clerk-Treasurer, or duly authorized representative, and shall be signed and verified by oath or affirmation by the licensee, if a natural person, or in the case of a partnership, association or unincorporated enterprise, by a partner, limited liability company (LLC) or managing member thereof, or in the case of a corporation, by an executive officer thereof. The applicant shall deposit with the city Clerk-Treasurer 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 23. Application for Retail Liquor License.

Application for retail liquor license shall be made in accordance with city procedures.

Section 24. 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, as required by Section 22, who shall forward the application to the Alcohol License Review Committee. The Alcohol License Review Committee shall:

- (a) Promulgate procedures and forms for the orderly consideration of all applications for a license to sell alcoholic beverages which require approval of the City prior to issuance.
- 1. (b) 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.
- (c) 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.
- (d) Not hinder the police department's ability to enforce criminal violations or city ordinances.
- (e) 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.
- (f) 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.
- (g) Provide such other information as may from time to time be requested by the City Council to complete its review and action on applications submitted for approval.**

Section 25 Review of Application.

(a) In the event of approval by the city council, the city Clerk-Treasurer, or designated representative, shall be responsible for ensuring that written approvals of the police, building, fire and health, and city Clerk-Treasurer, or designated representative, and City Alcohol License

Review Committee are included as a part of the application indicating the satisfactory compliance with the applicable requirements for each respective department.

(b) Subsequent to the city council approval and the applicant's compliance with subsection (b) of this section, 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 alcoholic beverage control board field office supervisor responsible for the county.

Section 26. Public Notice.

(a) 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 days in advance of the next regular meeting of the city council, and further stating the time and place that same is to be considered and that at such time and place all interested persons may appear at said meeting and be heard for or against the application. Such publication shall be at the applicant's expense.

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

Section 27. Consideration of Application.

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 article, the city council shall consider, among others, the following factors:

- (a) The effects upon residents, real property owners and businesses within 500 feet of the property for which a license is sought.
- (b) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.
- (c) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.

- (d) 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 of business are within 500 feet of the property for which a liquor license is sought.
- (e) 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.
- (f) The recommendation of the city alcohol license review committee. Any recommendation factor must be grounded in the protection of the health, safety, and public welfare of the community.
- (g) The zoning ordinances in place and any effects the proposed license would have on long term land use planes under consideration by the City.

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 Winston County.

Section 28. Filing Fee.

There is hereby required, as a filing fee to cover the costs of processing and investigating each application filed with the city for a city license of any kind or class, the sum of \$300.00 _____, and the city Clerk-Treasurer or duly authorized representative shall not accept any application for any such license not accompanied by said payment to the city along with the payment of the publication costs, as required in this article. The city shall retain the filing fee to cover the expenses of processing and investigating said application, whether or not said application results in approval or denial, provided, however, that the filing fee for a special events license applications shall be \$150.00.

Section 29. City Alcohol License Fees.

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

- (1) **Beer Wholesale License.** Each person licensed as a beer wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state. In addition, each licensee will remit to the city Clerk-Treasurer, on forms provided by such Clerk-Treasurer, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 5B (Code of Ala. 1975, § 28-3-190

et seq.). Wholesale beer dealers and distributors will not sell to any retail outlet that does not have a current city license.

(2) **Wine Wholesaler License.** Each person licensed by the state alcoholic beverage control board as a wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the state. In addition, each licensee will remit to the city Clerk-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 (Code of Ala. 1975, § 28-7-1 et seq.). Wholesale wine dealers will not sell to any retail outlet that is not properly licensed by the city.

(3) **Beer and Wine Wholesale License.** Each person licensed as a beer and wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine and beer license by the state. In addition, each licensee will remit to the city Clerk-Treasurer, on forms provided by such Clerk-Treasurer, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 5B (Code of Ala. 1975, § 28-3-190 et seq.). In addition, each licensee will remit to the city Clerk-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. Wholesale beer and wine dealers will not sell to any retail outlet that is not properly licensed by the city.

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

(5) **Club Retail Liquor License.** Each person licensed by the state alcoholic beverage control board to operate a club, class I or II, (**as defined under section 28-3-1(7), Code of Alabama, 1975**) under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of **\$1,500.00** if a class I club, and **\$2,000.00** for a class II club. In addition, to said stated license fee, each person shall pay to the city, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of **15 percent of gross receipts** of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(6) **Lounge Retail Liquor License.** Each person licensed by the state alcoholic beverage control board to operate a retail lounge under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of **\$5,000.00**. In addition to said stated license fee, each person shall pay to the city, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of **15**

percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(7) **Retail Liquor for Off-Premises Consumption** (Package Store Lounge Retail Liquor-Class II). Each person licensed by the board to operate a retail lounge – Class II 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.

(8) **Restaurant Retail Liquor License.** Each person licensed by the state alcoholic beverage control board to sell alcoholic beverages in connection with the operation of a restaurant under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual privilege license fee of \$1,500.00. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 15 percent of the monthly gross receipts of such business derived from the sale and/or including.

(9) **Retail Table Wine License for Off-Premises Consumption.** Each person licensed by the state alcoholic beverage control board to sell table wine for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the state.

(10) **Retail Table Wine License for On-Premises and Off-Premises Consumption.** Each person licensed by the state alcoholic beverage control board to sell table wine at retail for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state wine license by the state, unless such person shall have paid for an on-premises liquor license according to Code of Ala. 1975, § 28-3A-21.

(11) **Retail Beer for On-Premises and Off-Premises Consumption.** Each person licensed by the state alcoholic beverage control board to sell beer for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state according to Code of Ala. 1975, § 28-3A-21.

(12) **Retail Beer for Off-Premises Consumption.** Each person licensed by the state alcoholic beverage control board to sell beer for off-premises consumption under the

Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of 50 percent of the amount charged for state beer license by the state according to Code of Ala. 1975, § 28-3A-21.

(13) **Special Retail Liquor License for On-Premises Consumption.** Each person who has obtained a special retail liquor license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city a license fee of \$250.00 when the period of use is 30 days or less. Such person shall pay to the city a license fee of \$350.00 when the period of use is more than 30 days. In addition to said stated license fee, each such person shall pay to the city 50 percent of the amount charged for state wine license by the state. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 15 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(14) **Special Events Retail License for On-premises Consumption.** Each person who has been recommended by the city and obtained a special events retail liquor license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city a license fee of \$200.00. No such license shall be issued for a period in excess of seven days. Such alcoholic beverages as are authorized by the state alcoholic beverage control board may be sold. All applications for special event licenses shall be filed with the city Clerk-Treasurer at least 25 days in advance of the event for which a license is sought. In addition to the stated license fee, each such person shall pay to the city, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 15 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. Hereunto, shall apply to applicant for a special event retail liquor license.

- a. Submit the required filing fee (\$75.00).
- b. Receive affirmative recommendation to the city council by the city alcohol review committee.
- c. Receive approval from the city council.
- d. Receive license from state alcoholic beverage control board.
- e. Pay the required license fee (\$200.00).
- f. Each applicant/organization shall not be allowed to apply for more than five special event licenses in any one calendar year.
- g. No sale of alcohol is to be sold during a special event on any Sunday after 12:00 a.m.
- h. Shall be required to purchase the alcoholic beverages from a wholesale licensee of the state alcoholic beverage control board.

(15) **Manufacturer License.** Each person who has obtained a manufacturer license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of \$350.00.

(16) **Importer License.** Each person who has obtained an importer license from the state alcoholic beverage control board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the city an annual license fee of \$350.00.

(17) **Liquor Wholesale License.** Each person who has obtained a liquor wholesale license from the state alcoholic beverage control board under Code of Ala. 1975, § 28-3A-1 et seq. shall pay to the city an annual license fee of \$1000.00.

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

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

(d) Every person subject to this division may take a discount in an amount equal to two percent of all taxes paid to the city under the provisions of this division, provided the reports are made and the taxes paid before the same become delinquent hereunder. If reports are not filed within the time herein provided and the taxes not paid on the dates herein provided for, such person shall pay to the city the full amount of tax together with interest at the rate of three percent per month, or fraction thereof, from the date the payment of such tax became delinquent; a penalty of 15 percent of the amount of the tax; and a citation fee of \$1.50; which interest, penalty, and citation fee must be paid by such person.

Section 30. Reports of Business Done and Tax Due.

The person liable for any license tax or other tax imposed by this article shall file with the city Clerk-Treasurer or duly authorized representative, on or before the final date on which the tax may be paid without a penalty, such report in such form as the city Clerk-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 declared unlawful and be punishable as such.

Section 31. 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. (1) Each business requesting to sell alcoholic beverages within the City of Haleyville must obtain Business Certification through the Alabama Responsible Vendor Program within sixty (60) 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.

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

SECTION 32. 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 ORDINANCE No. 759 and _____ CITY OF HALEYVILLE CODE OF ORDINANCES.

SECTION 33. APPLICATION OF MUNICIPAL CODE AND ORDINANCES

Ordinance No. 759 and _____, CITY OF HALEYVILLE CODE OF ORDINANCES, shall apply in all respects to any violations of this Ordinance.

**ARTICLE IV
DIVISION OF REVENUES**

SECTION 34. DIVISION OF REVENUE

The revenue generated by the legal sale of alcohol under this ordinance, which is retained by the City of Haleyville and which is not required to be paid to any other state or county government, shall be divided as follows: twenty five (25%) percent to the Haleyville City School System and seventy five (75%) percent to the City of Haleyville General Fund.

**ARTICLE V
MISCELLANEOUS PROVISIONS**

SECTION 34. 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 35. 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 except to the extent that the State of Alabama has authorized the municipality, in exercise of its police powers and/or powers to regulate the zoning laws of the city to determine and regulate the matters contained herein. 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 to the extent required by law.

SECTION 36. EFFECTIVE DATE

This Ordinance shall be effective immediately upon certification by the City Clerk-Treasurer that the legalized sale of alcoholic beverages in the City has been authorized pursuant to provisions of the laws of the State of Alabama.