

ORDINANCE 2021-02-001

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONROEVILLE, ALABAMA, A MUNICIPAL CORPORATION, AS FOLLOWS:

The entire Alcoholic Beverages Ordinance is hereby amended and repealed as replaced with a comprehensive and all-inclusive ordinance by the following sections which is hereby enacted:

ARTICLE VIII. - ALCOHOLIC BEVERAGES

Sec. 5-110. - Definitions.

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

Alcoholic beverage: Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquors, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes which contain one-half (½) of one (1) percent or more of alcohol by volume, and shall include liquor, beer and wine, both fortified and table wine.

Association: A partnership, limited partnership, or any form of unincorporated enterprise owned by two (2) or more persons.

Beer or malt or brewed beverages: Any beer, lager beer, ale, porter, malt, draft beer or brewed beverage or similar fermented malt liquor containing one-half (½) of one (1) percent or more of alcohol by volume and not in excess of five (5) percent of alcohol by weight and six (6) percent by volume, by whatever name the same may be called.

Board: The state alcoholic beverage control board.

Brewpub means an establishment licensed and meeting the qualifications of a brewpub under the state alcoholic beverage control laws, as stated in Code of Ala. 1975, title 28, chapter 4A, as now existing or hereafter enacted, and which meets the following additional requirements:

- (1) The serving of food or meals must constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines and other alcoholic beverages being only an incidental part of the business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute more than fifty (50) percent of the gross receipts of the business.

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

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

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

Draft or keg beer means beer or malt beverages served from a cask or keg rather than a bottle or can.

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

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

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

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 five thousand (5,000) square feet.

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

Liquor: Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented, or otherwise alcoholic and all drinks or drinkable liquids, preparations or mixtures, intended for beverage purposes which contain more one-half (½) of one (1) percent or more of alcohol by volume, except beer and table wine.

Malt or brewed beverages means any beer, lager beer, ale, porter or similar fermented malt liquor containing one-half (½) of one (1) percent or more of alcohol by volume and not in excess of four (4) percent alcohol by weight and five (5) percent by volume, by whatever name the same may be called.

Manufacturer means any person, or entity, licensed by the alcoholic beverage control board to produce, manufacture, brew, distill or ferment alcoholic beverages of any nature or description pursuant to Code of Ala. 1975, title 28, chapter 3A as now existing or hereafter enacted. Manufacturers shall be classified as either micro-brewery or micro-distillery defined as follows:

Micro-distillery means an establishment for the manufacture, blending, fermentation, processing and packaging of alcoholic beverages, except beer and wine, with a floor area of ten thousand (10,000) square feet or less which takes place wholly inside a building and produces no more than seventy-five thousand (75,000) proof gallons of alcoholic beverages annually. The planning commission may consider a conditional use permit via a separate application to increase by no more than twenty (20) percent for a maximum of ninety thousand (90,000) proof gallons. A tasting room is permitted within the micro-distillery. The micro-distillery must be properly licensed by any state or federal regulatory agency with jurisdiction over the facility, including the Alabama Beverage Control Board. All activities must occur within the building and outdoor storage is prohibited.

Micro-brewery means an establishment for the manufacturing, blending, fermentation, processing and packaging of beer which is actively and continuously brewed for consumption on the premises where manufactured, with a floor area of ten thousand (10,000) feet or less which takes place wholly inside a building and produces no more than ten thousand (10,000) barrels of beer in one (1) year. A tasting room is permitted within the micro-brewery. All activities must occur within the building and outdoor storage is prohibited. The micro-brewery must be properly licensed by any federal or state regulatory agency with jurisdiction over the facility, including the Alabama Alcoholic Beverage Control Board.

Meal: A diversified selection of food some of which is not susceptible of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about.

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

Private club:

- (1) *Class I only:* A corporation or association organized or formed in good faith by authority of law and which must have at least one hundred fifty (150) paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

Public place: Any place or gathering which the public generally attends or is admitted to either by invitation, common consent or right, or by payment of any admission or other charge, and without limiting the foregoing, shall include any streets, alleys, sidewalks, public easements, or rights-of-way, parking lots designed for use by the general public, public buildings, buildings which are open to the public including but not limited to school buildings or grounds, parks and libraries, places where school related and recreational games or contests are held, any theater, auditorium, show, skating rink, dance hall or other place of amusement or any club, provided that such term shall not mean or include premises which have been duly licensed under the ordinances of the city and the laws of the state for sale or consumption of such beverages and provided that with consent of the city council a private gathering may not be included within the meaning of public place with respect to the owners, occupants or lessees of such premises or place or to any persons specifically invited therein: provided, that such term shall not mean or include premises which have been duly licensed by the city for sale thereon of such beverages.

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

- (1) At least one (1) meal per day shall be served at least five (5) days a week, serving every business day, with the exception of holidays, vacations, and periods of redecorating;
- (2) Such place shall be duly licensed by the board for the sale of liquor for on-premises consumption; and
- (3) The serving of such food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages, wines or other alcoholic beverages being

only an incidental part of such business. During any ninety-day period, the gross receipts from the serving of meals and food shall constitute more than fifty (50) percent of the gross receipts of the business.

Restaurant-pub means any place or premises in which foods, refreshments, and malt or brewed beverages and/or table wines (but not liquor) are offered for sale for consumption on premises in which the establishment is located, which is operated by a person of good reputation and which meets the following additional requirements:

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

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

- (1) Such place shall be duly licensed by the ABC board of the state for the sale of liquor for off-premises consumption. The licensee must have a minimum of five hundred (500) square feet of floor space for the display and sales of alcoholic beverages. The square footage required in this subsection shall not include areas of the licensed premises which are not open to the patrons and which are used for office space, storage or restroom facilities.
- (2) Such place shall meet the following building requirements:
 - a. The building must be separated from any other building by a wall or firewall with no way of entrance to adjoining building.
 - b. There shall be no windows except plate glass windows in the front of building which must be protected by burglar bars or burglar alarm. No drive-through windows will be allowed.
 - c. There shall be no public seating in the building.
 - d. There shall be a complete day/night lighting in front and rear of the building.
 - e. All stock must be kept in the same building in which it is offered for sale; it cannot be stored off the premises.
- (3) The licensee is authorized to sell only alcoholic beverages, ice, cocktail mixers and tobacco products, and further the licensee is authorized to sell only snacks and delicatessen items, cheeses, beverage containers, and fruit juices. The licensee shall not sell general grocery items, novelties, clothing, or any other items of general merchandise.
- (4) The licensee shall at all times when open for business have in its possession a minimum inventory of five thousand dollars (\$5,000.00) wholesale value of liquor or wine. The liquor must have been produced by at least two (2) distilleries, and the wine produced by at least two (2) wineries.
- (5) No person under the age of twenty-one (21) years shall be issued such license nor shall any corporation be issued such license unless the president thereof is over the age of twenty-one (21) years.
- (6) No person under twenty-one (21) years of age shall be admitted on the premises of any package store as a patron or employee.
- (7) Package stores must close at 10:00 p.m.

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

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

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

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

Tavern means any place or premise operated by a responsible person of good reputation in which malt or brewed beverages and/or table wines (but not liquor) are offered for sale for on-premises

consumption, but which does not meet the requirements for a restaurant-lounge, restaurant-pub, or private club-lounge, as these establishments are defined in this article.

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

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

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

(1) Fortified wine. Any wine containing more than sixteen and one-half (16.5) percent alcohol by volume but not more than twenty-four (24) percent.

(2) Table wine. Any wine containing not more than sixteen and one-half (16.5) percent alcohol by volume.

~~Table wine: Any wine containing more than fourteen and nine tenths (14.9) percent of alcohol by volume. Table wine is not liquor, spirituous or vinous.~~

Sec. 5-111. - Scope of article.

The provision of this article shall apply to the retail and wholesale sale of alcoholic beverages for off-premises consumption and on-premises consumption, and to the retail sale of alcoholic beverages for off-premises consumption by on-premises licensees and to the use, possession and consumption of alcoholic beverages.

Sec. 5-112. - License required.

- (1) It shall be unlawful for any person to have in such person's possession any alcoholic beverages, within the city, for the purpose of sale, or to sell, or keep for sale, or offer for sale, without first having procured from the city a license therefor.
- (2) Filing fee. There is hereby required as a filing fee to cover the costs of processing and investigating each application filed with the city for a city license of any kind or class, the sum of three hundred dollars (\$300.00), and the city clerk or duly authorized representative shall not accept any application for any such license not accompanied by said payment to the city along with the payment of the publication costs, as required in this article. Said the city shall retain filing fee to cover the expenses of processing and investigating said application, whether or not said application results in approval or denial, provided however, that the filing fee for a special events license application shall be seventy-five dollars (\$75.00).

Sec. 5-113. - License.

- (1) *Application.* The application of any person for any license issued under this article shall be made upon such forms as the city clerk may prescribe. Every private club applicant shall also file with or as a part of its applicants shall also file with or as a part of its application, a true and correct list of all of its members, officers, and directors, a certificate of incorporation or documentation relating to its form of organization, and for such other information as the city clerk shall require. All such applications shall be in writing and shall be properly verified by oath of the applicant or applicant's agent.
- (2) *Applicant qualifications.*
 - (a) Licenses shall be granted and issued by the city only to reputable individuals who are citizens of the United States or associations whose members are reputable individuals who are citizens of the United States or to reputable corporations organized under the laws of the state or duly qualified thereunder to do business in the state.
 - (b) Sale of beer and wine for off-premises consumption. No license shall be approved by the city council for the retail sale of malt and brewed beverages or wine for off-premises consumption unless the business of the licensed establishment is at least sixty (60) percent the sale of groceries, foodstuffs, gasoline and general merchandise. The retail sales of groceries, foodstuffs, gasoline and general merchandise shall constitute the principal business of the licensed establishment with the sale of malt or brewed beverages or wine being only an incidental part of the business. During any ninety-day period, the gross receipts from the sale of groceries, foodstuffs, gasoline and general merchandise shall constitute more than sixty (60) percent of the gross receipts. In addition, no license shall be granted under this article until after the required alcoholic beverage control license shall have been duly issued by the state alcoholic beverage control board. This paragraph shall not be applicable to retail, off-premises, package liquor store licensees.

- (c) Lounges. No license shall be approved by the city council for the retail sale of alcoholic beverages for on-premises consumption except for "private club, restaurants or special events."
- (3) *Investigation of applicant.* Upon application for a license for sale of alcoholic beverages, the city shall conduct its own investigation in all matters contained in the application. Upon completion of the investigation, the application along with the results of the investigation, shall then be delivered to the city council, which may grant or deny the application in the exercise of its ultimate discretion, considering any and all factors, including the report of the alcohol license review committee and the impact on the area involved as well as to the city. The city council shall report any denial and the reasons for such denial to the board.
- (4) *Alcohol license review committee.*
- (a) There is hereby created for the purpose of assisting and advising the city council in the review of applications for alcoholic beverage licenses, and inquiry and recommendation concerning complaints or disciplinary action of an alcoholic beverage licensee, a committee to be known and designated as the Monroeville Alcohol License Review Committee to be composed as follows:
- (1) Revenue department representative.
 - (2) Chief of police or his designated representative.
 - (3) Building inspector or his designated representative.
 - (4) Fire chief or his designated representative.
 - (5) Citizen appointed by the mayor.
- (b) The committee shall hold meetings as are necessary to review alcohol license applications or make inquiry into the compliance of a current alcoholic beverage licensee with this chapter and other provisions of the Code. The city council shall provide the committee with its rules of procedure, which the city council may, in its discretion, amend or alter at any time.
- (c) The committee shall investigate the information contained within the application for an alcoholic beverage license and shall submit a written recommendation to the city council concerning the approval or disapproval of the application. The city council may then deny the application or withhold final decision following a public hearing.
- (d) 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 sell alcoholic beverages.
- (e) The committee shall have the authority to require the licensee to produce records for its review as relate to the operation, ownership, or management of the licensed establishment.
- (f) The committee shall promulgate written procedures for documenting and investigating complaints concerning the operation of an alcoholic beverage establishment as well as establishing a method of documenting violations of this article by a licensee or its employees. The committee shall be responsible for requesting the city council to consider disciplinary action against a licensee when violations of this or other ordinances of the city, or laws of the state warrant.
- (g) The committee shall investigate and make recommendations on any other alcohol related matters which may be submitted to the committee by the city council.
- (5) *Notice of hearing on applications.* If the application has not been denied, the applicant must next publish notice of the filing of the application and of the time set for a hearing once a week for two (2) consecutive weeks in a newspaper of general circulation published in the city. The notice shall be published at no cost to the city and the applicant shall submit a publisher's affidavit to the city council of compliance with the publication notice. The notice shall be substantially as follows:
- Notice is hereby given that _____ doing business as _____ located at _____ has made an application for the City of Monroeville City Council to approve the issuance of a _____ license by the Alabama Alcoholic Beverage Control Board and that the _____ day of _____, 20____, at _____ p.m. has been set for the hearing thereof at the Monroeville City Council meeting. Any interested persons may appear at such time and place and be heard for or against the granting the granting of such approval.
- (6) *Posting of licenses.* Every license issued under this article shall be conspicuously and constantly exposed under a transparent and visible substance on the licensed premises.
- (7) *Suspension or revocation of license; assignability.*
- (a) The city shall have the right to suspend or revoke any license issued to any person for any violation of this article or the state alcoholic beverage licensing code.
- (b) Licenses issued under this article may not be assigned or transferred.

Sec. 5-114. - License fees or taxes—Schedule.

Each person licensed by the board, who shall engage in the alcoholic beverage, liquor, beer or wine business within the corporate limits, shall, prior to engaging in such business, in addition to any other privilege licenses required, pay to the city, for the privilege of so engaging in business, an annual fee or tax and further license fees or taxes as established below:

- (1) *Beer wholesale license:* Each person licensed as a beer wholesaler shall pay to the city and annual license fee of two hundred fifty dollars (\$250.00). In addition, each licensee will remit to the city clerk, on forms provided by the city clerk, each month, the privilege or excise tax levied on the sales of beer by the Uniform Beer Tax Act, Sections 28-3-190—28-3-199 of the Code of Alabama, 1975. Wholesale beer dealers and distributors shall not sell to any retail outlet that does not have a current city beer license.
- (2) *Wine wholesale license:* Each person licensed by the board as a wine wholesaler shall pay to the city an annual license fee of two hundred seventy-five dollars (\$275.00). In addition, each licensee will remit to the city clerk, on forms provided by the city clerk, each month, the privilege or excise tax levied on the sale of table wine by the Alabama Table Wine Act, Sections 28-7-1—28-7-24 of the Code of Alabama 1975.
- (3) *Beer and wine wholesale license:* Each person licensed by the board as a beer and wine wholesaler shall pay to the city an annual license fee of three hundred seventy-five dollars (\$375.00). In addition, each licensee will remit to the city clerk of Monroeville, on forms provided by such clerk, each month, the privilege or excise tax levied on the sales of beer by the Uniform Beer Tax Act, Sections 28-3-190—28-3-199 of the Code of Alabama 1975. In addition, each licensee will remit to the city clerk of Monroeville, on forms provided by such clerk, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act, Sections 28-7-1—28-7-24 of the Code of Alabama 1975.
- (4) *Restaurant retail liquor license:* Each person licensed by the board to sell alcoholic beverages in connection with the operation of a restaurant under the terms of this article shall pay to the city and annual license fee of two hundred fifty dollars (\$250.00). In addition to such stated license fee, each such person shall pay to the city, on or before the fifteenth day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business an additional license tax of ten (10) percent of the gross purchases made by the licensee from the board during such next preceding calendar month, other than purchases of beer and table wine.
- (5) *Club retail liquor license:* Each person licensed by the board to operate a class I club, under the Code of Alabama shall pay to the city an annual license fee of two hundred fifty dollars (\$250.00). In addition, to said stated license fee, each person shall pay to the city, on or before the fifteenth day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of ten (10) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. Any club so organized shall acquire a club retail license rather than a restaurant retail license.
- (6) Tavern license.
 - a. Each person licensed by the city to operate a tavern license under this article shall pay to the city an annual license fee of five hundred dollars (\$500.00). Licensees hereunder shall not be allowed to serve liquor. Licensees hereunder shall be allowed to sale/serve alcoholic beverages for on premise consumption only. Licensees hereunder shall be required to acquire and maintain either a retail merchant license or a restaurant license issued by the City of Monroeville.
- (7) *Retail table wine license for off-premises consumption:* Each person licensed by the board to sell table wine at retail for off-premises consumption shall pay to the city an annual license fee of seventy-five dollars (\$75.00).
- (8) *Retail table wine license for on- and off-premises consumption:* Each person licensed by the board to sell retail table wine for on- and off-premises consumption under this article shall pay an annual privilege or license tax of seventy-five dollars (\$75.00).
- (9) *Retail beer license for off-premises consumption:* Each person licensed by the board to sell beer for off-premises consumption shall pay to the city an annual license fee of fifty dollars (\$50.00).
- (10) *Retail beer license for on- and off-premises consumption:* Each person licensed by the board to sell beer for on- and off-premises consumption shall pay to the city an annual license fee of fifty dollars (\$50.00).
- (11) *Retail liquor, wine and beer license for off-premises consumption:* Each person licensed by the board to sell liquor, table wine and beer at retail for off-premises consumption under this article shall pay to the city an annual license fee of one thousand dollars (\$1,000.00). In addition to the

stated license tax, each such person shall pay to the city, on or before the fifteenth day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of five (5) percent of the gross purchases made by the licensee from the board during such preceding calendar month, than purchases of table wine and beer.

- (12) *Special events retail license*: Each person licensed by the board for a special events retail license which is valid for seven (7) days or less, shall pay to the city a privilege or license tax of fifty dollars (\$50.00) per day if such special event is conducted by a nonprofit organization; and one hundred dollars (\$100.00) per day if such special event is conducted by a for-profit organization.
- (13) *Brewpub*
 - a. Each person licensed by the board to operate a brewpub shall pay to the city an annual license fee of two hundred fifty dollars (\$250.00).
- (14) *Manufacturer*
 - a. *Micro-brewery*
 - 1. Each person who has obtained a manufacturer license from the board under Code of Ala. 1975, § 28-3A-1 et seq., shall pay to the city an annual license fee of five hundred dollars (\$500.00).
 - b. *Micro-distillery*
 - 1. Each person who has obtained a manufacturer license from the board under Code of Ala. 1975, § 28-3A-1 et seq., shall pay to the city an annual license fee of five hundred dollars (\$500.00).

Sec. 5-115. - Bond of licensee.

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

Sec. 5-116. - Records to be kept; availability for inspection.

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 reports there can be readily obtained information as to the correct amount of license tax due the city. As a part of such records, each wholesaler shall keep an individual ledger or card account for each of such wholesaler's customers, and such ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by the purchaser's authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom such retailer purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof, and the number of cases or bottles purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than two (2) years succeeding such calendar year. All of such records shall be open for inspection and checking during such regular business hours as the city clerk may request. Failure to keep any of the records required by this section or elsewhere in this article, or refusal to make the same available to the city clerk, shall constitute grounds for revocations of any license issued under this article. In addition, thereto, an annual report, under oath, shall be filed with the city clerk in January of each year, showing the purchases of the entire year, next preceding.

Sec. 5-117. - Filing of reports.

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

Sec. 5-118. - Due dates; delinquent dates; penalties; proration.

- (a) The stated annual license fees levied by the schedule shall initially be due on the date the initial license is issued by the city and thereafter shall be due on January second of each year.
- (b) All licenses not paid within thirty (30) days from the date they fall due shall be increased by fifteen (15) percent for the first thirty (30) days they shall be delinquent and shall be measured by an additional fifteen (15) percent for a delinquency of sixty (60) or more days, but this provision shall not be deemed to authorize the delay of thirty (30) days in the payment of the license due, which may be enforced at once.
- (c) In the case of persons who began business on or after the first day of the calendar year, the license for such "new business" shall be increased by fifteen (15) percent for the first fifteen (15) days they shall be delinquent, and shall be measured by an additional fifteen (15) percent for a delinquency of forty-five (45) days or more.
- (d) All delinquent accounts (both license taxes and penalties) shall also be charged simple interest at the rate of one (1) percent per month.
- (e) Every person who commences business on or after July 1st, shall be subject to and shall pay one-half ($\frac{1}{2}$) the annual license for such business for that calendar year.
- (f) All additional license taxes levied by the schedule shall be due the fifteenth day of the calendar month specified in each levy and shall be delinquent if not paid by such date, and a penalty of fifteen (15) percent shall be collected after such day of each month.

Sec. 5-119. - Compliance with fire prevention and building codes.

- (a) No license under this article shall be issued to any person to sell alcoholic beverages for on-premises consumption until the applicant shall with the fire prevention code and the various building codes of the city in effect at the time of such application.
- (b) No license shall be issued under this article unless the city building inspector certifies that the premises to be licensed is in substantial compliance with the objectives of the requirements contained in the Zoning Ordinance, Articles IX, X, and XVII.

Sec. 5-120. - Compliance with zoning regulations, types of license.

No license for on-premises or off-premises sale or consumption of alcoholic beverages shall be granted to any person unless the proposed location of such business shall be in one (1) of the following zones according to the zoning ordinance and map in effect for the city at the time of such application:

- (1) *Wholesale distribution of alcoholic beverages:* Alcoholic beverages for wholesale distribution shall be considered the same as any other products distributed at wholesale.
- (2) *Beer and wine for off-premises consumption:* A store which sells beer and/or wine for off-premises consumption (sales) shall be permitted in a CBD, B-1 and B-2 zone.
- (3) *Retail, off-premises, package liquor store:* Retail liquor, wine and beer package stores shall be permitted in a CBD, B-1 and B-2 zone.
- (4) *Restaurant serving alcoholic beverages:* A restaurant retail liquor license shall be permitted in a CBD, B-1 and B-2 zone.
- (5) *Private club—Class I:* A class I private club shall be permitted in a B-1, B-2 zone. Conditional use in residential zones where country clubs and golf courses are allowed.
- (6) *Brewpub/Tavern* On-premises and off-premises sale of beer shall be permitted in B-2 and B-3, CBD zone and an M-1 zone on appeal, which said appeal shall be to the board of zoning adjustment of the city.
- (7) *Manufacturer*
 - a. *Micro-brewery.* B-1, B-2, CBD zone and an M-1 zone on appeal, which said appeal shall be to the board of zoning adjustment of the city.
 - b. *Micro-distillery.* B-1, B-2, CBD zone and an M-1 zone on appeal, which said appeal shall be to the board of zoning adjustment of the city.

Sec. 5-121. - Location of premises near church or school.

- (1) Subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the building in which the premises are located is less than three hundred (300) feet from any building in which there is a church, or a public or private elementary, intermediate, middle or junior high, high school and child development facility. The aforesaid distance restrictions shall not apply in the following enumerated cases:
 - (a) Where the church or school building was established or constructed after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of twelve (12) months.
- (2) 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 the city licensed premises, the closest point on the exterior wall of the building occupied by the licensee shall be used for measurement purposes if the building is occupied solely by the licensee; otherwise, such measurement shall be made from the closest point of the licensee's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points on licensed establishments to the aforementioned defined points on a church or school.

Sec. 5-122. - Authorized hours.

It shall be unlawful for any person, whether a liquor, wine or beer license or not, to sell, offer for sale or to serve, dispense for offer or reward, or to offer to serve or dispense for reward, any liquor, wine, or beer, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 12:00 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. and 12:00 p.m. (Noon) on Sunday or between the hours of 12:00 a.m. and 6:00 a.m. of the following Monday. (Ord. of 4-17-07; Ord. No. 2020-01-001, 1-7-20)

Sec. 5-123. - Sales to certain persons.

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

Sec. 5-124. - Possession by minor.

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

Sec. 5-125. - Misrepresentation of age of minor.

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

Sec. 5-126. - Delivery of beverages in properly marked vehicles.

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

Sec. 5-127. - Packaging of beverages.

Retail licensees for off-premise sale of individual or packages of six (6) or less alcoholic beverages must place each container thereof in a bag, box or other similar opaque covering prior to the customer's leaving the licensee's building used for alcoholic beverage sales.

Sec. 5-128. - Signs advertising alcoholic beverages at places of business.

It shall be unlawful for any person to display any electric sign advertising alcoholic beverages either on the inside or on the outside any place of business, and it shall be unlawful for any person to display any painted sign advertising alcoholic beverages outside the place of business.

Sec. 5-129. - Sale or consumption in public places.

The sale, furnishing, giving away, serving and drinking of any alcoholic or malt or brewed beverages in any public place, as defined herein, or the grounds thereto, is prohibited.

Sec. 5-130. - Open containers.

It shall be unlawful for any person to drink, sell, serve, display, dispense or give away, or attempt to drink, sell, serve, display, dispense or give away, any alcoholic beverage while upon any street or while in any motor vehicle in the city; and further, it shall be unlawful for any person to drink, sell, serve, display, dispense or give away, or attempt to drink, sell, serve, display, dispense or give away, any alcoholic beverage while upon any sidewalk within the corporate limits of the city; and further, it shall be unlawful for any person to possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag, or other receptacle not its original container while upon or along any public street, road or highway in the city or while in any automobile or other motor vehicle on or along any public street, road or highway in the city, or in violation of section 5-129.

Sec. 5-131. - Consuming alcoholic beverages in state liquor store or off-premises licensed establishment.

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

Sec. 5-132. - Sale at unlicensed premises.

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

Sec. 5-133. - Order on premises; reports of assaults; affrays, etc.; certain conduct prohibited.

- (a) It shall be the duty of each owner and of each manager or supervisor at any time charged with the management and supervision of any retail liquor, retail table wine or retail malt or brewed beverage licensed premises, while the same is opened to the public, to maintain order upon the premises and to exclude from the premises any person who is drunk and disorderly or who commits any breach of the peace, or who uses offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each officer, owner, manager or person in charge of any retail liquor, retail table wine, or retail malt or brewed beverage licensed premises with the city, immediately to make an appropriate report to the police department of the city of each assault, assault and battery, or affray, occurring on the licensed premises while said premises is open for business. It shall further be the duty of such person to make a written report of each incident to the police department of the city and to the local field office of the board within thirty-six (36) hours thereof.
- (b) No on-premises licensee shall conduct or allow to be conducted on the licensed premises any form of lewd or indecent entertainment including, but not limited to, male or female strippers, mud wrestling, topless or bottomless dancers or waitresses, lewd or indecent dancing, wet t-shirt contest, or any other sensual or erotic contests, or activities of any kind.
- (c) It shall be unlawful for any licensee to make or allow to be made, any noise or sounds of such volume or such nature as to cause annoyance to the residents of the city or to disturb the peace by making of unnecessary noise.
- (d) Tastings
 - a. Notwithstanding any provision of law, a tasting of liquor or wine may be conducted by a licensed manufacturer or its representative inside the premises of a retail license that is licensed to sell liquor for off-premises consumption only or inside a state liquor store, in compliance with this section and Section 28-3A-25 and rules of the Alabama Alcoholic Beverage Control Board.
 - b. Each state liquor store and each holder of a retail license for the sale of liquor for off-premise consumption only may permit a licensed manufacturer or its representative to conduct at no charge to the consumer, inside the state liquor store or the premises of the licensee, tastings of wine and distilled spirits. These tastings may not exceed one (1) ounce serving of each wine, the number of wines being limited to no more than four (4) products at any one (1) tasting; and one-quarter (1/4) ounce serving of each distilled spirit, the number of distilled spirits being limited to no more than two (2) products at any one (1) tasting. The tasting shall commence no later than six (6) o'clock p.m. and end within two (2) hours of the initial tasting. There shall be only one (1) tasting of any kind on a given premise within a twenty-four (24) hour period.

Sec. 5-134. - Identification card required for managers or bartenders employed by licensee.

- (a) Any person who wishes to be employed as a manager, bartender or server/seller by any alcoholic beverage licensee licensed under this article shall be required to provide the employer with written

evidence of their successful completion of the responsible vendor program, or any similar successor program as conducted through the alcoholic beverage control board, or an approved alternative responsible vendor program as described elsewhere in this article. In lieu of the requirement in the preceding sentence, an employee may fulfill this requirement by successfully completing an employer sponsored responsible vendor program which has been approved in writing by the alcohol license review committee. The employee shall affirm to the employer, in writing, that he or she has no criminal convictions of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within the preceding twelve (12) months. The employer shall maintain a copy of said verification and affirmation on the licensed premises, and upon receipt of such verification and affirmation, shall issue the employee a card showing the employee's name, date of issuance, and the licensed name of the employer. The city may provide the licensee with the blank cards for use in fulfilling this requirement.

- (b) Any person who is employed as a manager, bartender, or server/seller by any alcoholic beverage licensee under this article shall, while on duty on the licensed premises, have on their person an identification card issued by the employer indicating that he or she has complied with the requirements of this section and is duly registered with the employer as an approved manager, bartender, or server/seller.
- (c) It shall be unlawful for any alcoholic beverage licensee licensed under this article to employ any manager, bartender, or server/seller who has not met the requirements of this section and who has not been issued the prescribed identification card by the employer.
- (d) It shall be unlawful for any alcoholic beverage licensee licensed under this article to have on duty any manager, bartender, or server/seller who does not have on their person an identification card issued by the employer under this section.
- (e) It shall be unlawful for any manager, bartender, or server/seller to be on duty as such on an alcoholic beverage premises in the city without the identification card on their person issued by the employer under this section.
- (f) In the event the bartender or server/seller is not regularly employed by an alcoholic beverage licensee, but is working in the capacity as defined in this article, said bartender or server/seller may obtain an identification card by providing a copy of the written evidence of successful completion of the responsible vendor program to the city, along with an affirmation indicating that said person has no final conviction for a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within the preceding twelve (12) months, and a card will be issued to that person.
- (g) It shall be the responsibility of the manager, bartender, or server/seller to notify the employer in writing of any final conviction of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation within fifteen (15) days of said final conviction. Said employer shall preserve such notice for a period of twelve (12) months.
- (h) It shall be unlawful for any alcoholic beverage licensee licensed under this article to employ a person as a manager, bartender, or server/seller, who, in the next preceding twelve (12) months has been finally adjudicated as guilty of a drug or alcohol related offense involving possession, sale, or a driving under the influence violation, and said person has notified the employer of such final conviction.
- (i) Any person currently employed as a manager, bartender, or server/seller by an alcoholic beverage licensee shall have ninety (90) days from the effective date of the ordinance from which this article is derived to comply with the responsible vendor certification requirements contained within this section.
- (j) Notwithstanding any other provisions of this section, any person who is employed as a manager, bartender, or server/seller subsequent to the effective date of the ordinance from which this article is derived shall have a period of forty-five (45) days in which to comply with the responsible vendor certification requirements of this section.

Sec. 5-135. - Duties and responsibilities of the person in charge.

- (a) Each alcoholic beverage licensee shall be required to designate a person or persons who will be known as the "person-in-charge" (PIC) for the licensed establishment. This person or persons shall be responsible for ensuring compliance with the provisions of this article and those of the alcoholic beverage control board during such time as they are functioning in the role as a person-in-charge and shall be required to have visibly displayed on their person a card, as issued to the licensee by the city, indicating that they are the person-in-charge.
- (b) Any person who is designated as a person-in-charge, shall be required to provide written evidence to the employer of their successful completion of the responsible vendor program as conducted through the alcoholic beverage control board, or an alternative responsible vendor program otherwise approved by the city as described elsewhere in this article. Additionally, any such person shall provide an affirmation to the employer that said person has no final conviction for a drug or alcohol related offense involving possession, sale, or driving under the influence violation during the preceding twelve (12) months. Such records as required by this subsection shall be preserved by the employer for a period of twelve (12) months.

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

Sec. 5-136. - Penalties.

Any person who violates any provision of this article or any regulations promulgated by the board relating to the sale of alcoholic beverages, or any provision of law contained in the licensing code of the state, shall be punished, upon conviction, as provided in section 1-8, and the license of any such person shall, upon conviction, be subject to revocation by the city council of the city.

Sec. 5-137. - Application of municipal code and ordinances.

Ordinances of the City of Monroeville, Alabama, shall apply in all respects to any violations of this article.

Sec. 5-138. - Conflicts with state statutes.

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

THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION AND PUBLICATION AS REQUIRED BY LAW.

Adopted this the 2nd day of February, 2021.

ATTEST:

Mary Jackson
City Clerk

Charles E. Andrews, Mayor
City of Monroeville, Alabama