

Councilmember Michael Sherwood introduced the following Ordinance:

ORDINANCE NO. 04-013

AN ALCOHOLIC BEVERAGE ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALABASTER,
ALABAMA, AS FOLLOWS:

Section 1. Title.

This ordinance shall be known as the "Alabaster Alcoholic Beverage Ordinance".

Section 2. Definitions.

The following terms, as used in this chapter, shall have the meanings respectively ascribed to them:

Alcoholic beverage control law: Title 28 of the Code of Alabama 1975, as amended.

Beer licensed place: A place at which malt or brewed beverages are licensed by the state alcoholic beverage control board to be so sold or served.

Beer licensee: A person licensed by the state alcoholic beverage control board to sell or serve malt or brewed beverages to consumers.

Engaged in business: A wholesaler or retailer shall be deemed "engaged in business" in the city or within the police jurisdiction of the city if such person has a fixed place of business therein, or if, pursuant to agreement of sale, express or implied, such person delivers beverages regulated by this chapter within the city or within its police jurisdiction regardless of where else such person may also sell or deliver such commodities.

Fixed place of business: Any place where any of the commodities referred to in this chapter are kept or stored for sale or delivery.

License inspector: The license inspector, deputy license inspector, assistant license inspector and any employee of the city who may be designated by the license inspector to aid or assist in the enforcement of this chapter.

Liquor licensed place: A place at which liquor is licensed by the state alcoholic beverage control board to be so sold or served.

Liquor licensee: A person licensed by the state alcoholic beverage control board to sell or serve liquor to consumers.

Minimum age: A person is under the minimum legal drinking age as established by state law for the purposes of purchasing, consuming, possessing or transporting alcohol, liquor or malt or brewed beverages if such person is less than twenty-one (21) years of age, subject to the exceptions of Section 28-1-5, Code of Alabama, 1975.

Minor: Any person under twenty-one (21) years of age, subject to the exceptions of Section 28-1-5; provided, however, in the event Section 28-1-5, Code of Alabama, 1975, shall be repealed or otherwise shall be no longer in effect, thereafter the provisions of Section 26-1-1, Code of Alabama, 1975, shall govern (see Section 28-3-1, Code of Alabama, 1975). Unless otherwise superseded by state law.

Retailer: A person engaged in the business of selling or serving beverages regulated by this chapter to consumers.

State law definitions: All of those words and phrases which have been defined or to which meanings have been ascribed in Sections 28-3-1 and 28-4-1 of Title 28 of the Code of Alabama 1975, shall have the same meanings in this chapter as ascribed to them in such Sections of the Code of Alabama, unless the context clearly indicates otherwise or a different meaning is ascribed to it in this chapter.

Wholesaler: A person engaged in the business of selling beverages regulated by this chapter to retailers.

Section 3. Violation of state law or rules and regulations.

It shall be unlawful and a violation of this chapter for any person to do anything or commit any act constituting a misdemeanor under the state alcoholic beverage control law or under any rule or regulation of the state alcoholic beverage control board.

Section 4. Sale, possession, etc., of liquor not purchased from state.

It shall be unlawful for any person to sell, offer for sale, serve, dispense or have in possession or custody for any purpose any liquor which has not been sold by the state alcoholic beverage control board, except that, for consumption only, liquor purchased pursuant to the laws of a foreign state shall not be unlawful.

Section 5. Possession of illicit distilled liquor or nontax paid liquor.

It shall be unlawful for any person to possess or have in possession any illicit distilled liquor. It shall likewise be unlawful, except as otherwise authorized by law, for any person to have in possession any liquor which does not have on the bottle or container thereof a state stamp evidencing the payment of the state liquor tax thereon.

Section 6. Sale of malt or brewed beverages by other than licensee or at other than licensed place.

- (a) It shall be unlawful for any person, other than a beer licensee, to sell or offer to sell to a consumer, or to serve or dispense for reward to a consumer, or offer to serve or dispense for reward to a consumer, or to have in possession or custody for any such purpose, any malt or brewed beverage at any place in the city.
- (b) It shall likewise be unlawful for any person, whether or not a beer licensee, to sell or offer to a consumer, or to serve or dispense for reward to a consumer, or to offer to serve or dispense for reward to a consumer, or to have in possession or custody for any such purpose, any malt or brewed beverage at any place in the city other than in a licensed beer place, or in an area otherwise authorized by licensed restriction.

Section 7. Sale of liquor by other than licensee or state store.

It shall be unlawful for any person, other than a liquor licensee or a state liquor store, to sell or offer for sale to a consumer, or to serve or dispense for reward to a consumer, or offer to serve or dispense for reward to a consumer, or have in possession or custody for any such purpose, any liquor or wine at any place in the city.

Section 8. Sale of liquor at other than licensed place or state store.

It shall be unlawful for any person, whether or not a liquor licensee, to sell or offer for sale to a consumer, or to serve or dispense for reward to a consumer, or to offer to serve or dispense for reward to a consumer, or have in possession or custody for any such purpose, any liquor or wine at any place in the city other than in a liquor licensed place or a state liquor store.

Section 9. Delivery of malt or brewed beverages for off-premises consumption generally; curb service prohibited.

A person holding a retailer's license for off-premises consumption of malt or brewed beverages shall deliver such beverages to the purchaser only within the retailer's place of business for which licensee has a license for off-premises consumption; curb service of any kind shall be unlawful.

Section 10. Packaging of malt or brewed beverages sold for off-premises consumption.

Malt or brewed beverages, when sold or delivered by the retailer for off-premises consumption, shall be contained in a sealed carton or sealed case, or wrapped in a package, the intent being that bottles or cans containing such beverages shall be entirely concealed.

Section 11. Retailers not to purchase malt or brewed beverages from unqualified wholesalers.

It shall be unlawful for any retailer to purchase for resale or accept delivery of any malt or brewed beverages from any person unless such person has qualified to engage in the business of a wholesale distributor of malt or brewed beverages in this county.

Section 12. Consumption or possession in public places--Generally.

It shall be unlawful for any person to drink or to have in open or unconcealed possession or custody for drinking any alcoholic beverage at or in any public place other than a place licensed to sell alcoholic beverages for consumption on the premises or in places otherwise authorized by permit or so designated by the City Council of the City of Alabaster. For purposes of this Section, the words "public place" shall include without limitation any motor vehicle while on the public streets or other public place and shall also include without limitation any "public place" as defined by Section 13A-11-1(2), Code of Alabama, 1975. It is provided, however, that the words "public place" shall not mean or include any area in which a city permit and any applicable state and local laws and licenses, specifically allow alcoholic beverages to be sold, served, or consumed.

State law references: Public intoxication, Code of Ala. 1975, § 13A-11-10.

Section 13. Sale or disposition to intoxicated persons prohibited.

It shall be unlawful for any beer licensee or liquor licensee, or any servant, agent or employee of any such licensee, or for any other person to sell, furnish, give away or otherwise dispose of any malt or brewed beverages, wine, liquor, or any alcoholic or intoxicating beverage to any person visibly intoxicated.

Section 14. Sale or disposition to minors prohibited.

It shall be unlawful for any beer licensee or liquor licensee, or any servant, agent or employee of any such beer or liquor licensee, or for any other person to sell, furnish, give away or otherwise dispose of any malt or brewed beverage, wine, liquor or any alcoholic or intoxicating beverage to any person who is defined as a minor in the state alcoholic beverage licensing code. Any such licensee or other person who sells, furnishes, gives away or otherwise disposes of any malt or brewed beverage or any

alcoholic liquor to another shall be charged with the absolute duty of knowing that such other person is not a minor, and it shall constitute no defense to a prosecution for a violation of this Section that the defendant did not know or was misinformed as to the age of such other person.

Section 15. Improper identification by a minor.

It shall be unlawful for any person who is a minor under the state alcoholic beverage licensing code to knowingly falsely represent by word or act that such person is not a minor, including, without limitation, knowingly presenting or possessing a false instrument of identification or an instrument of identification which misrepresents the age of such minor.

State law references: Attempts to purchase by minors, Code of Ala. 1975, § 28-3A-25(a)(19).

Section 16. Aiding minor in obtaining alcoholic beverages.

It shall be unlawful for any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not of minority age under the state alcoholic beverage licensing code, and, by means of such false representation, to aid or abet, or attempt to aid or abet, such minor person to buy, receive or otherwise obtain, or aid and abet such minor person to attempt to buy, receive, or otherwise obtain, from any licensee or any other person, any malt or brewed beverage or alcoholic liquor.

Section 17. Nude or nearly nude activities in establishments with retail liquor license and/or retail malt or brewed beverage license.

(a) It shall be unlawful for and when a person is guilty of performing nude or nearly nude activity when that person performs in a liquor- or beer-licensed place within the corporate limits of the City of Alabaster in such a manner or attire as to expose to view any portion of the pubic area, buttocks, anus, anal cleft, vulva or genitals, or any simulation thereof, or the showing of the covered male genitals in a discernibly turgid state, or when any female performs in a liquor- or beer-licensed place in such a manner or attire as to expose to view the portion of the breast below the top of the areola or any simulation thereof.

(b) A beer licensee or a liquor licensee shall be guilty of permitting nude or nearly nude activity when having control of a beer-licensed place or a liquor-licensed place which it knows or has reasonable cause to know is being used by any person to perform on the premises in such a manner or attire as to expose to view any portion of the pubic area, buttocks, anus, anal cleft, vulva or genitals, or any simulation thereof, or the showing of the male genitals in a discernibly turgid state; or used by any female to perform in such place in such a manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof, it permits such activity or fails to make reasonable and timely effort to halt or abate such activity or use.

Section 18. Duty of licensee to preserve order and prevent violations.

It shall be the duty of every beer licensee and every liquor licensee, and of the servant, agent or employee of every such licensee in charge of any beer-licensed place or liquor-licensed place:

(1) To maintain order and decorum in such licensed place and, to this end, to require all persons to leave the premises when, in the opinion of such licensee or the servant, agent or employee, in charge of the licensed place, such persons are guilty of conduct contrary to good order or decorum.

(2) To not permit in any such licensed place a violation of this chapter or any other ordinance of the city, or law of the state or regulation of the state alcoholic beverage control board pertaining to spirituous or vinous liquors or brewed or malt beverages.

Section 19. Refusal to leave licensed premises on request.

Any person who, after having been requested to quit the premises at any beer licensed place or at any liquor licensed place by the proprietor, or the agent or employee of the proprietor of such licensed place, fails or refuses to immediately do so shall be guilty of a misdemeanor.

Section 20. Nuisances.

Any place used for the selling, serving or dispensing of liquor or malt or brewed beverages for reward contrary to state law or to the provisions of this chapter is a nuisance, and it shall be unlawful for any person to maintain or aid or abet in maintaining any such nuisance.

Section 21. Disposition of contraband beverages.

Whenever any person shall have been convicted in a court of possession or custody of any liquor, wine or malt or brewed beverage contrary to the provisions of this chapter or of any state law or any regulation of the state alcoholic beverage control board, or for engaging in the business of selling malt or brewed beverages without a license, and it shall appear that the police department has seized such liquor, wine or malt or brewed beverages and has the same in custody as evidence or otherwise, a court may enter an order declaring such liquor, wine or malt or brewed beverages to be contraband and ordering the chief of police to destroy the same or to sell the same to the state alcoholic beverage control board for account of the city. An appeal from any conviction upon which any such order depends shall carry with it an appeal from such order.

Section 22. Procedures for approval and issuance of wine, liquor or a malt beverage license for on-premises consumption and approval of restaurant liquor licensees--Generally.

(a) Any person, corporation or partnership desiring license applications of [for] on-premises sale (sale for consumption on the premises) of liquor, wine or malt beverages and/or restaurant liquor license shall make application for such license on forms provided by the city and available in the revenue office along with a release form to the State of Alabama accompanied by a twenty-five dollar (\$25.00) money order made payable to the State of Alabama, or such other amount as required by the state, to obtain a criminal background history from the State Alabama for each applicant, each person who is an officer of the corporation and each person who is a member of the partnership. Such forms shall be completely and legibly filled out and signed by the person seeking a license.

(b) On receipt of the application, properly filled out and executed along with the plans required for restaurant liquor license and/ or beer and wine license in paragraph (c) of this Section, the director of the revenue department shall cause the application to be forwarded to the police department, the fire department, the building inspection department and the zoning department of the city for consideration and report. Each said department or agency shall inspect the proposed premises or make such investigation into the reputation or character of the applicant as may be required to insure the premises to be occupied and that the person seeking to conduct the business complies and meets with the requirements for which said department has responsibility. Provided, however, inspections and reports shall not be required from the zoning, county health and inspection departments when an existing owner with a current business license and a current alcoholic beverage license, in good standing, applies only for a more restrictive

alcoholic beverage license at the same location without any other activity that would otherwise trigger such inspections.

Written reports from each such agency or department with the findings resulting from such investigation and inspection shall be promptly returned along with the application(s) to the revenue department. Reports shall be returned within thirty (30) days after receipt unless such department has not received the criminal background history from the State of Alabama and such department shall be granted additional time by the revenue department to complete the report to the city council.

On the return of the departmental reports, if it appears that the applicant does not legally qualify by meeting standards of health, criminal history, zoning or other requirement, such applicant shall be promptly notified by the revenue department and given opportunity to remedy such deficiency, and if such applicant is not satisfied or is aggrieved by any departmental department, such applicant shall have a right to appeal to the governing body as to the particular departmental objection. Then the actual license application for restaurant liquor license and/ or beer and wine license shall be considered by the city council.

State law references: Approval of license issuance, Code of Ala. 1975, §§ 28-3A-11, 28-3A-12, 28-3A-13.

Section 23. Same--Restaurant and club liquor licenses.

(a) No "restaurant" liquor license application shall be approved unless the applicant can and does qualify as a restaurant under the provisions of the state alcoholic beverage licensing code.

(b) No "club" liquor license application shall be approved unless the applicant can and does qualify as a club under the provisions of the state alcoholic beverage licensing code.

State law references: See Code of Ala. 1975, § 28-3A-2.

Section 24. Transfer; information as to corporate officers, etc.

(a) A license issued hereunder for the sale of wine, liquor or malt beverages shall not be transferred to permit the operation at a different location than the location specified in the license and a license issued hereunder shall not be assigned to and held by a person other than the person to whom the license was issued.

(b) Prior to the issuance of a license hereunder to a corporation, the corporation shall furnish to the city the names and addresses of the officers, directors and stockholders of the corporation, showing the amount of capital stock owned by each stockholder. The requirements as to the names of all stockholders may be waived by the city in the event the stock is widely held by members of the public through over-the-counter or other public sale thereof and when the names of all stockholders exceed twenty (20) persons and are impossible or difficult to ascertain.

(c) In the event a majority of the capital stock of a corporation holding a license hereunder is sold, the license is automatically revoked and the corporation shall apply for and take out a new license under the provisions hereinabove set out. No additional license shall issue to the corporation until all licenses, taxes and fees due the city by the corporation first holding the license shall have been paid in full.

Section 25. License taxes for wholesalers of beer.

Every wholesaler engaged in the business, within the city, of selling, or delivering pursuant to sale, to retailers at any point or points within the city any malt or brewed beverages, and every wholesaler engaging in the business of storing or withdrawing from storage for sale, where such storage is within the city shall pay to the city, for the privilege of engaging in such business, a fixed annual license tax of two hundred seventy-five dollars (\$275.00), or the maximum amount allowed by state law whichever is greater, which fixed annual license shall be prorated as other city licenses are prorated.

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Such fixed annual license tax shall be paid before first commencing in such business and thereafter shall be due and payable on January first and delinquent after March first of each calendar year.

Section 26. License taxes for retailers of beer.

Every such retailer and each person engaged in the business of selling, serving or delivering pursuant to sale, within the city, malt or brewed beverages at retail shall pay to the city, for the privilege of engaging in such business, a fixed annual license tax of seventy-five dollars (\$75.00), or the maximum amount allowed by state law whichever is greater, where such beverage is sold or delivered for consumption on the premises where served, dispensed, sold or delivered, and a fixed annual license of fifty dollars (\$50.00), or the maximum amount allowed by state law whichever is greater, where such beverage is sold or delivered for consumption off the premises.

Section 27. Expansion of on-premises licensed establishments.

(a) Definitions: As used in this Section, the following terms shall have the respective meanings ascribed to them:

Expand or enlarge the license premises: The occupation or the addition of any area or space which results in an increase in the size or occupancy of the premises in which any activity, pursuant to or in conjunction with the sale of alcoholic liquor or beverages, is conducted.

On-premises licensee: Any person operating pursuant to a license from the state alcoholic beverage control board to engage in the business of on-premises sale of liquor or malt or brewed beverages.

Residential property: Any property having residential occupancy, or zoned for any type of residential occupancy by the zoning ordinance of the city.

- (1) Application to expand or enlarge such license premises shall first be made to the license inspector of the city, and shall show in words and figures and, where required, by map or drawing, the exact extent of the proposed expansion or enlargement, either in size or occupancy of the premises.
- (2) On receiving such application, the license inspector shall cause the same to be submitted to the inspection department, planning department, fire marshal, police department and county health department, and shall deliver the request to the Revenue Director for action by the governing body.

Section 28. Separate retailer license required for each state license.

Each retailer shall procure a separate city license under this chapter for each state license used by such person or entity.

Section 29. Records and reports--Records of purchases, sales and deliveries.

It shall be the duty of each person subject to the license tax imposed by this chapter to keep full and complete records of all purchases, sales and deliveries of liquor, wine and brewed or malt beverages, from which records there can be readily obtained information as to the correct amount of license tax due the city. Such records shall be preserved for not less than three (3) years, and shall be open to inspection and checking at all times during regular business hours, as the revenue officer, or their representative, may request. In the event that any retailer fails to keep such records, or to open them to the revenue officer or authorized representative for inspection and checking as such clerk or representative may request, the revenue officer shall proceed to levy and collect the license tax in the manner and form provided for in Chapter 7 of this Code.

Section 31. Inspection of books, records, etc., of beer wholesalers and retailers.

It shall be unlawful for any wholesaler or any retailer to refuse to allow the license inspector of the city to inspect or audit the books and records of such wholesaler or retailer pertaining to the receipt, storage, transfer, sale or distribution of malt or brewed beverages, or to refuse to permit the license inspector access to any warehouse or to any place where malt or brewed beverages may be stored or kept, or to refuse to allow the inspector to take inventory of the stock of malt or brewed beverages.

Section 32. Minors prohibited on certain licensed premises.

It shall be unlawful for any minor to be in, upon or on the licensed premises of any establishment licensed by the Alcoholic Beverage Control Board of the State of Alabama as a lounge retail liquor licensee subject to exemptions for certain persons under the legal drinking age as set forth in Section 28-1-5, Code of Alabama, 1975.
State law references: Similar provisions, Code of Ala. 1975, § 28-3A-11.

Section 33. Certain licensees not to admit minors.

It shall be unlawful for any establishment licensed by the Alcoholic Beverage Control Board of the State of Alabama as a lounge retail liquor licensee either directly or by its servants, agents or employee(s) to admit or allow any minor to be in, on or upon said licensed premises subject to exemptions for certain persons under the legal drinking age as set forth in Section 28-1-5, Code of Alabama, 1975.

State law references: Similar provisions, Code of Ala. 1975, § 28-3A-11.

Section 34. Licensees not to allow possession by minors.

It shall be unlawful for any establishment licensed as on-premises by the Alcoholic Beverage Control Board of the State of Alabama either directly or by its servants, agents, or employee(s) of the same, to allow the possession or consumption of alcoholic beverages by or to any minor or to permit any such minor to drink, consume or possess any alcoholic beverage on any such licensee's premises.

State law references: Similar provisions, Code of Ala. 1975, §§ 28-3A-25(3), 28-3A-25(19).

Section 35. Minor in possession of alcohol.

It shall be unlawful for any person under twenty-one (21) years of age to possess, consume, purchase, or attempt to purchase, any alcoholic beverage; provided, it shall not be unlawful for any alcoholic beverage control board licensee to employ any person under the age of twenty-one (21) to work pursuant to Section 28-1-5, Code of Alabama, 1975.

Section 36. Bringing or allowing alcoholic beverages to be brought onto business premises.

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

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

Section 37. Retail common carrier liquor license.

(a) It shall be unlawful for any person who operates a common carrier that receives or delivers passengers at any point within the city limits of Alabaster, to serve, sell, or furnish any alcoholic beverages to any passenger or other person, without first obtaining a retail common carrier liquor license from the City of Alabaster. Applications and consideration by the city council for a retail common carrier liquor license shall follow the same procedure set out in § 3-23 and § 3-25.

(b) Any retail common carrier liquor licensee shall also be required to meet the provisions of the Code of Alabaster for a restaurant liquor license and/ or beer and wine license, except that the requirements of § 23(c)(1) shall not apply in cases where the restaurant serves catered meals that are prepared elsewhere and transported to the common carrier. However, such licensee shall be required to obtain a separate business license from the City of Alabaster to operate such a restaurant and to operate any other type of business abroad the common carrier.

(c) Any applicant for such a license shall comply with all statutes, rules, regulations, and other requirements under state law, as amended, that apply to a retail common carrier liquor license. No such license shall be issued if the activity it would authorize would violate or conflict with federal, state, or local law.

Section 38. Private Club License tax

Every such retailer and each person engaged in the business of selling or serving pursuant to sale for a private club, within the city, malt or brewed beverages at retail shall pay to the city, for the privilege of engaging in such business, a fixed annual license tax of five hundred dollars (\$500.00).

Section 39. Certificate required of managers and other employees.

(a) Every person seeking employment as a manager of an establishment shall, prior to accepting employment, file with the city and with his employer a certificate on forms made available by the city containing the following information and statements:

(1) The name, age, place of birth and place of residence of the applicant during the preceding three (3) years.

(2) If the applicant has during the three (3) years immediately preceding the date of such application had a license for the sale of intoxicating beverages issued by the state alcoholic beverage control board revoked.

(3) If the applicant has been convicted within three (3) years prior to the date of such certificate of:

- a. A felony;
- b. Any law of the state or provision of this Code or other ordinance of the city regulating or controlling intoxicating beverages;
- c. Solicitation;
- d. Illegally using, carrying or possessing a pistol or other dangerous weapon;
- e. Making or possessing burglar's instruments;
- f. Buying or receiving stolen property;
- g. Unlawful entry of a building;
- h. Unlawfully possessing or distributing habit forming narcotic drugs;
- i. Vagrancy;
- j. Violating any law or ordinance prohibiting sale or possession of obscene literature or material;
- k. Indecent exposure;
- l. Prostitution.

(b) Every person seeking employment as a hostess, cashier, bartender, waiter, waitress, or in any job category the duties of which require direct contact with customers in the establishment shall file the same certificate required of managers with the licensee and no such person or manager shall be employed who answers affirmatively questions (2) or (3), unless they shall have first obtained the written consent of the city council.

Section 40. Application for license; deposit of fee; approval by health officer; designation of place of business.

Each person applying for a license to sell the beverages defined in Section 30-1 shall make application therefor on a form similar in all respects to the form required for the application for state licenses under Code of Alabama, Section 28-3-1 et seq., as amended, and such forms shall contain the same statement of facts required under such state law for state applications. No such license shall be issued until the applicant has been duly licensed by the state and no application for a state license shall be approved until an application for the city license has been made and the sum required for the issuance of the city license has been deposited with the city revenue department. In the event the state license is refused, the sum so deposited shall be immediately returned to the applicant. No application for a state license shall be approved nor shall a city license be issued for the sale of alcoholic beverages for consumption on the premises until the applicant deposits with the city revenue department a certificate by the health officer that the premises in question are sanitary and properly equipped for compliance with the state and city sanitary and health laws. Every license issued shall designate the place at which such business shall be carried on and such license shall authorize the carrying on of such business only at the place designated.

Section 41. Revocation of license generally.

- (a) Licenses to sell the beverages defined in this Section may be revoked:
- (1) When the licensee or his agent or servant is convicted of violating the provisions of this chapter,
 - (2) When the licensee's state license for the same occupation is revoked by the state,
 - (3) When the licensee or his agents or servants fail to observe the city or state health and sanitation laws,
 - (4) When any licensee shall become insolvent, make an assignment for the benefit of creditors or become bankrupt by either voluntary or involuntary action, and
 - (5) When the licensee fails or refuses to make the reports required by this chapter.

(b) In the event any license is revoked under the provisions of this Section, no refund shall be made or credit be given for the unused portion of the license fee for the remainder of the license year for which the license was granted.

Section 42. Employees not to drink while on duty.

No employee of any person licensed by the city or state to sell intoxicating liquors or malt or brewed beverages and while situated in such licensed premises and while on duty in such employment shall drink or consume any intoxicating liquors or malt or brewed beverages. A violation hereof shall be punished as a misdemeanor with a fine of up to \$500.00 and (6) six months in jail.

Section 43. Sale of beer for consumption in private room.

No retailer shall sell any malt or brewed beverages for consumption on the licensed premises except in a room or place on the licensed premises at all times

accessible to the use and accommodation of the general public, but this Section shall not be interpreted to prohibit a hotel or club licensee from selling malt or brewed beverages in any room of such hotel or clubhouse occupied by a bona fide registered guest or member entitled to purchase the same.

Section 44. Sales to drunkards, etc.

It shall be unlawful for any licensee under this chapter to sell, furnish or give any alcohol, liquor, malt or brewed beverages or wine to any person visibly intoxicated or to any insane person or to any minor or to habitual drunkards or persons of known intemperate habits.

Section 45. Penalties

Any person violating any provision of this Ordinance shall be assessed a fine for the first violation of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), plus court costs, and the fines for the second and any subsequent violations shall not be less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), plus court costs for each, and a jail sentence of not more than thirty (30) day hard labor for the City. Second convictions shall also include a city license revocation of not less than thirty (30) days.

Section 46. Interpretation; effective date.

The interpretation and application of the provisions of this ordinance shall be held to be the minimum requirements for the public health, safety, and welfare. This ordinance shall be in full force and effect from and after its passage, adoption, and publication as may be required by law. This ordinance shall be deemed to be cumulative to any existing or hereinafter enacted state law that is a city violation by reference to the state law.

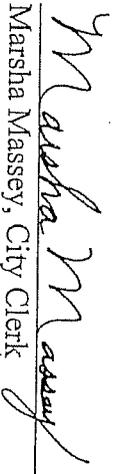
Section 47. Severability.

If any Section, subsection, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other Section, subsection, clause, provision, or portion of this ordinance which is not in and of itself invalid or unconstitutional.

ADOPTED AND APPROVED this 20 day of December, 2004.

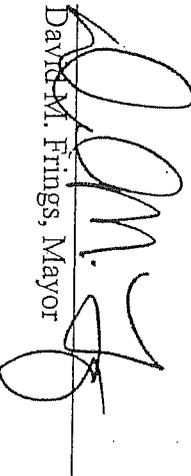
ATTEST:

CITY OF ALABASTER, ALABAMA


Marsha Massey, City Clerk

By: 
Rick Walters, Council President

APPROVED:


David M. Frings, Mayor