

CITY OF ENTERPRISE ALABAMA



ALCOHOLIC BEVERAGE LICENSE AND CONTROL ORDINANCE

**#12-18-84
AS AMENDED
01-8-85
AND 06-4-85**

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ORDINANCE 12-18-84

AN ORDINANCE TO PROVIDE FOR THE LICENSING REGULATION AND CONTROL OF RESTAURANT-LOUNGES, RESTAURANT-PUBS, LOUNGES, PRIVATE CLUBS AND OTHER ESTABLISHMENTS FOR THE ON PREMISE RETAIL SALE OF WINES, LIQUOR, AND OTHER ALCOHOLIC DISTILLED SPIRITS INCLUDING MALT AND BREWED BEVERAGES, AND TO PROVIDE PENALTIES FOR VIOLATION OF THE REGULATIONS HEREIN PROVIDED IN THE CITY OF ENTERPRISE, ALABAMA.

BE IT ORDAINED by the City Council of the City of Enterprise, Alabama, at its regular meeting held on the 18th day of December, 1984, as follows:

This Ordinance shall be referred to as Article VI, Alcoholic Beverages, and shall be an addition to Chapter 7, Business Licenses, Taxes and Regulations Ordinance of the City of Enterprise, Alabama.

SECTION 7-54. Purpose of Chapter; Liberal Construction.

This chapter shall be deemed, in addition to revenue purposes within the corporate limits, the exercise of the police power of the city for the protection of the public welfare, health, peace and morals of the people of the city, and all the provisions of this chapter shall be liberally construed for the accomplishment of this purpose. This chapter shall have application to that portion of the corporate limits of the City of Enterprise, Alabama, and none other.

SECTION 7-55. Adoption of Certain State Control Board Regulations.

The rules and regulations adopted and promulgated by the Alabama Beverage Control Board, in effect as of May 15, 1972, and as may be adopted or amended thereafter, by said Beverage Control Board, the violation of which constitutes a misdemeanor, are hereby adopted as laws of the City.

SECTION 7-56. License - Required.

No person shall engage in business as wholesaler, distributor, jobber or retailer of malt or brewed beverages or alcoholic beverages in the corporate limits of the city without first having obtained from the city a license to do such business. Such license shall be issued by the city clerk, and shall first be approved by the city council at a regular meeting thereof, before the same shall be valid. Such license shall be renewed on the first day of October of each year thereafter. No reduction or proration of the fee for the license shall be allowed on account of not commencing its business on the first day of October, nor shall any rebate be allowed upon revocation, suspension, or surrender of such license before the expiration thereof. License issued under this Article may not be assigned. In the event that 51% of the ownership of a corporate licensee or partnership is sold or transferred to a person not previously an owner of the business and licensee during the license year, such sale or transfer shall be deemed to terminate the license issued under this Article, and shall require a new license to be purchased and issued for the continuation of such business. Applications for the transfer of the location of any license under this Article shall be administered as a new license, and the written application for such transfer shall be submitted with a transfer fee of \$25.00, which shall be refunded if the transfer is denied.

SECTION 7-57. Application.

The provisions of this Ordinance shall apply to the sale of alcoholic beverages.

SECTION 7-58 Eligibility; Application; Approval; Revocation Authorized.

(a) It shall be unlawful for any person to engage in the on-premise retail sale of alcoholic beverages within the city without first obtaining a license as herein provided. No person shall be granted a license for the sale of alcoholic beverages within the city, unless such person operates a Restaurant, Hotel, Restaurant-Lounge, Restaurant-Pub, Private Club-Lounge, or Lounge as defined by Section 7-60 this Article or is granted other Retail License as provided herein, and unless such person is duly licensed by the Alcoholic Beverage Control Board of the State of Alabama, and unless such person is licensed to do so by the city and conforms to all the regulations herein provided, and to all regulations promulgated by the Alcoholic Beverage Control Board of the State of Alabama, and unless such person pays all the license fees levied under this Article. In addition, such person shall file written application on the form provided by the State of Alabama with the City Clerk of the city prior to consideration of the application by the City Council of the City of Enterprise. Licenses shall be granted and issued by the city only to reputable individuals or to reputable corporations organized under the laws of the State of Alabama or duly qualified thereunder to do business in the State of Alabama, and then only when it appears that all officers and directors of the corporation are reputable individuals. **In addition, no license shall be granted under this Ordinance** if the establishment seeking such license is within the prohibited distance from any church building, public or private school building, YMCA building or public playground. Such distance shall be set out and measured in a straight line as defined in Section 7-67.

(b) **No license shall be approved by the Enterprise City Council for the retail sale of malt and brewed beverages or wine for off premise consumption unless the business of the licensed establishment is at least 60% in the sale of groceries, foodstuffs and/or general merchandise. The retail sales of groceries, foodstuffs, and/or 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 90-day period, the gross receipts from the sales of groceries, foodstuffs and/or general merchandise shall constitute more than 60% of the gross receipts. For the purpose and consideration of this paragraph, gasoline and fuel oil may be deducted from the gross receipts of the licensed business. This paragraph shall not be applicable to "Class II Lounge - Package Store" or "Private Club".**

In addition, no license shall be granted under the Article until after the required ABC license shall have been duly issued by the Alabama Beverage Control Board of the State of Alabama.

(c) All initial applications for a license shall be presented in writing at a regular meeting of the City Council. Said application shall be upon the appropriate form supplied by the City Clerk and shall be signed and verified by oath or affirmation by the owner; or in the case of a partnership, association or unincorporated enterprise, by a partner or member thereof; or in the case of a corporation by an executive officer thereof. The applicant shall deposit with the City Clerk the amount of publication costs to be incurred hereunder, as required by Section 7-59(b) this Article, and a \$30.00 filing fee.

An application seeking the consent and the approval of the City Council shall contain all the information required, by the appropriate form, for the classification of alcoholic beverage license being applied for. Failure to submit information as prescribed therein shall render the application to the city void.

License shall not be finally approved or denied until the next regular meeting of the City Council; however, any application may be held under advisement for a longer period. No initial license shall be issued except on approval of the City Council in a regular meeting, and the City Council may in such regular meeting direct that any renewal license, specifying the particular license, be withheld.

(d) All applicants for a lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license for a hotel, a restaurant retail liquor license for a restaurant or a restaurant pub shall certify to the City Council that notice of the application stating the day and time it is to be heard and considered at said public hearing has been circulated to residents, real property owners, and businesses within five hundred (500) feet of the property sought to be licensed by leaving a copy of said notice with each such resident or business or with some person over twenty-one (21) years of age at the home of each such resident or at each such business at least one week before the public meeting at which it is expected to be heard and considered by the City Council.

(e) In rendering a decision on each application, the City Council shall consider, among others, the following factors:

(1) The wishes and desires of the residents, real property owners, and businesses within five hundred (500) feet of the property for which a license is sought.

(2) Character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord and club manager.

(3) The criminal court records of the applicant, each partner, member, officer, member of the board of directors, landlord and club manager.

(4) Location of premises for which a liquor license is sought and the number of establishments presently holding liquor licenses for lounges, clubs, hotels and restaurants, whose place or places of business are within five hundred (500) feet of the property for which a liquor license is sought.

(5) The compliance by applicant, each partner, member, officer, member of the board of directors, landlord, and club manager with the laws of the State of Alabama and ordinances of the city.

(6) The City Council may refuse to approve a liquor license for a club when it appears that the operation would inure to the benefit of individual members, officers, agents, or employees of the club rather than to the benefit of the entire membership of the club, or the licensee shows intent to sell alcoholic beverages for off-premise consumption on Sunday.

(f) Bonds.

If the City Council decides to approve a lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license for a hotel, a restaurant retail liquor license for a restaurant, the City Council shall approve same only upon condition that the lounge, club, hotel, or restaurant licensee shall deliver to and maintain with the city a bond executed by the licensee and by some surety company authorized to do business in the city payable to the city in the sum of two thousand (\$2,000) dollars as liquidated damages and conditioned that the

licensee will comply with the laws of the State of Alabama and the ordinances, including, but not limited to, this Article, of the city relating to a lounge retail liquor licensee, a club retail liquor licensee, a restaurant retail liquor licensee for a hotel, a restaurant retail liquor licensee for a restaurant, as the case may be.

Said 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 cancelled without the consent of the City Council. The city may declare said bond forfeited as liquidated damages in its full amount of two thousand dollars (\$2,000) upon the breach of any one or more of said conditions. In lieu of said bond, such lounge, club, hotel or restaurant licensee may deposit with the director of finance of the city cash in the amount of two thousand dollars (\$2,000) upon the same conditions and subject to forfeiture as set forth above. Failure by the city to declare said bond or deposit forfeited in the case of a breach of any one or more of said conditions shall not operate as a waiver of the right to do so in the event of any subsequent breach of any one or more of said conditions.

Section 7-59. Advertisement of Fact of Pending License Application for Sale of Alcoholic, Malt or Brewed Beverages.

(a) Except as provided in subsection (c) below, in every case of application made to sell alcoholic, malt or brewed beverages at any location within the corporate limits of the City of Enterprise and its jurisdiction, in addition to other advertisement required by law, the applicant shall, at his own expense, post on the premises where the business or sale is to be conducted, continuously for a period of not less than seven (7) days prior to the consideration of the application by the council of the said city, a posted notice of the pending application meeting the following minimum specifications: The notice shall be painted or printed in black letters three (3) inches or more in height against a white background on a board or metal sign having a surface of not less than six (6) square feet, shall be placed with the bottom of the sign not more than three (3) feet from the ground on the most conspicuous part of the premises facing the street, road or drive not more than ten (10) feet therefrom, and shall state clearly the nature and purpose of the application and the name of the person, firm or corporation making the application. The sign to be posted on the proposed location should read as below:

I, _____, have made application to the City Council of the City of Enterprise
(applicant)
for a _____ (on) (off) premises consumption, at this location,
(type of license)
_____, Enterprise, Alabama.

(Applicant's Name)

(b) Except as provided in subsection (c) below, all other requirements having been met, the city clerk will publish in the local newspaper a copy of the publication as stated below, which in size shall be two (2) columns wide and two (2) inches in depth and which shall be bordered in heavy black lines. After advertisements have been published in three (3) consecutive publications, and a police survey report, the application will be placed on the agenda to be heard before the council.

I, _____ have made application to the City Council of the
(Applicant)
City of Enterprise for a _____ (on) (off) premises consumption, at
(type of license)
this location, _____, Enterprise, Alabama. A public hearing will be
held by the City Council in their regular meeting in the Council Chamber in City Hall at _____ o'clock P.M.,
Tuesday, _____, 19____.

(c) The requirements for posting notice on the premises and publication of notice in the newspaper under subsections (a) and (b) above shall not apply to the following applicants:

1. Applicant for a retail table wine license for off premises consumption who at the time of said application has a retail beer license for off premises consumption.
2. Applicant for a retail table wine license for on premises consumption who at the time of said application has a retail beer license for on premises consumption.

SECTION 7-60. Definitions.

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

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

- (b) **Association:** A partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons.
- (c) **City:** The City of Enterprise, a municipal corporation of the State of Alabama located in Coffee County.
- (d) **Corporation:** A corporation or joint stock association organized under the laws of this State, the United States, or any other state, territory, or foreign country or dependency.
- (e) **Class I Lounge:** Any place or premise operated by a responsible person of good reputation in which alcoholic beverages of all types may be offered for sale for on premise consumption only but does not meet the requirement for a Restaurant-Lounge, Restaurant-Pub, or Private Club Lounge as these establishments are defined herein and which meets the requirements of the Zoning Ordinance of Enterprise, 11-4-69 as amended and the following additional requirements:
1. A lounge area of at least 1,000 square feet on one floor in one room, said area to be equipped with tables and chairs and capable of seating at least 50 persons.
 2. A minimum of five (5) off-street parking spaces shall be provided for each one hundred square feet of lounge area, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.
- (f) **Class II Lounge Package Store.** A Class II lounge retail liquor licensee who operates the licensed premises for the sale of all classes of alcoholic beverages for off premise consumption only. In addition to meeting all other legal requirements, such licensee must also comply with the following additional conditions or requirements:
1. The licensee must have a minimum of 500 square feet of floor space for the display and sales of alcoholic beverages. The square footage herein required shall not include areas of the licensed premises which are not open to the patrons or general membership of licensee and which are used for office space, storage or restroom facilities.
 2. The licensee is authorized to sell only alcoholic beverages, ice, mixers, snack items and tobacco products. The licensee shall not sell general grocery items, novelties, clothing or any other item of general merchandise.
 3. The licensed premises shall not contain any interior door, window or passageway of any kind or description which opens or may be opened into an adjoining building. So-called "service doors" and "pass-through windows" are strictly prohibited. If the State Fire Marshall or the local fire chief determines that such a passageway would be necessary for the safety of the employees, members or patrons of the licensee, then in such event such passageway shall be allowed but the same shall be kept closed except for emergency or employees use and must be behind the counter.
 4. The licensed premises shall be located no less than 200 feet from any gasoline dispensing business in which licensee shall in anywise be interested either directly or indirectly in the ownership or leasehold thereof as owner, operator or affiliated company. The measurement to be used in determining the distance herein set forth shall be a straight line from the center of the front door of the licensed premises to the nearest gasoline pump available to the general public.
 5. The licensee shall at all times when open for business have in its possession a minimum inventory of \$5,000 wholesale value of liquor or wine. The liquor must have been produced by at least two distilleries, and the wine produced by at least two wineries.
 6. The licensee shall not advertise or identify its premises, prices or location by the use of a flashing or blinking sign or signs whether operated by electricity, gas or otherwise.
 7. No person under the age of twenty-one (21) years shall be issued such licenses nor shall any corporation be issued such licenses unless the president thereof shall be over the age of twenty-one (21) years.
 8. No person under nineteen (19) years of age shall be admitted on the premises of any Class II Lounge Package Store as a patron or employee and it shall be unlawful for any Class II Lounge Package Store licensee to admit any minor to the premises as a patron or employee.
- (g) **Alcoholic Beverages for Off-Premises Consumption.** Except for beer and wine, no alcoholic beverages for off-premises consumption shall be sold, furnished or given away in the City of Enterprise by any city alcoholic beverage retail licensee or under any city alcoholic beverage retail liquor license except by a "Class II Lounge or Package Store" licensee under a license, as that term and that license are defined and provided for herein. Nothing in this section is intended to conflict with the provisions of S28-3A-13, Code of Alabama 1975.
- (h) **Licensee:** Any person licensed by the Enterprise City Council to sell liquor, wines, or malt and brewed beverages under the terms of this Ordinance.

(i) **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 than one-half of one percent of alcohol by volume except malt or brewed beverages as defined herein.

(j) **Malt or Brewed Beverages:** Any beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of four percent alcohol by weight and five percent by volume, by whatever name the same may be called.

(k) **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.

(l) **Person:** A natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, such terms as applied to "association" shall mean the partners or members thereof and as applied to "corporation" shall mean the officers thereof, except as to private 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.

(m) **Private Club:**

1. **Class I.** A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for pecuniary gain as evidenced by Internal Revenue Service Qualified Exemption Status, 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 meeting, continue its business through officers regularly elected, admit members by written application only and 5-day waiting period, investigation and ballot and charge and collect dues from elected members. Licensee may offer for sale all classes of alcoholic beverages for on premise consumption. (State Law References, Code of Alabama 1975, 28-3A-12).

2. **Class II.** A corporation or association organized or formed in good faith by authority of law and which must have at least 100 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like. The Club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application only and 5-day waiting period, investigation and ballot and charge and collect dues from elected members. Licensee may offer for sale all classes of alcoholic beverages for on premise consumption. (State Law References, Code of Alabama 1975, 28-3A-12).

(n) **Restaurant Lounge:** Any place or premise in which foods, refreshments, and liquor are offered for consumption within the building in which the establishment is located, which is operated by a responsible person of good reputation and which meets the requirements of the Zoning Ordinance, City of Enterprise, 11-4-69 as amended and the following additional requirements:

1. The combined dining and kitchen areas totaling at least 1,000 square feet on one floor. Dining area to be equipped with tables and chairs accommodating at least 50 persons at one time. Storage areas not considered in meeting square footage requirements.

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

3. At least one meal per day shall be served at least six days a week, with the exception of holidays, vacations, and periods of redecorating.

4. Such place shall be duly licensed by the ABC Board of the State of Alabama for the sale of liquor for on-premise consumption.

5. 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 said business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute more than sixty percent of the gross receipts of the business.

(o) **Restaurant-Pub:** Any place or premise in which foods, refreshments, and malt or brewed beverages and/or table wines (but not liquor) are offered for sale for consumption within the building in which the establishment is located, which is operated by a person of good reputation and which meets the requirements of the Zoning Ordinance, City of Enterprise, 11-4-69 as amended and the following additional requirements:

1. The combined dining and kitchen areas totaling at least 600 square feet on one floor. Dining area to be equipped with tables and chairs accommodating at least 35 persons at one time. Storage areas not considered in meeting square footage requirements.

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

3. At least one meal per day shall be served at least six days a week, with the exception of holidays, vacations, and periods of redecorating.

4. Such place shall be duly licensed by the ABC Board of the State of Alabama for the sale of malt or brewed beverages and/or table wines for on-premise consumption.

5. The serving of such food 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 said business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute more than sixty percent of the gross receipts of the business.

(p) **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 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.

Fortified Wine. Any wine containing more than fourteen percent alcohol by volume, but not more than twenty-four percent.

Table Wine. Any wine containing not more than fourteen percent alcohol by volume.

SECTION 7-61. Levy of License Fee.

Establishments with Liquor Licenses. In addition to all other taxes now imposed by law, any person prior to the sale of any liquor (including wines and malt beverages) with the city and prior to receiving of a license from the city for such purpose shall pay to the city an annual license fee and said license fee is hereby fixed and shall be in the amounts indicated herein. Failure to continuously meet the requirements of a license specified, shall be sufficient reason for revoking the license.

Liquor, Wine and Beer License Schedule.

(1) Importer's License	\$250.00
(2) Liquor Wholesale License	400.00
(3) Wholesale Beer License	250.00
(4) Wholesale Wine License	275.00
(5) Wholesale Beer and Wine License	375.00
(6) Warehouse License	100.00
(7) Lounge Retail Liquor License	600.00
(8) Restaurant Retail Liquor License	600.00
(9) Club Liquor License	
Class I	1,000.00
Class II	1,250.00
(10) Retail Table Wine License (Consumption off Premise)	75.00
(11) Retail Table Wine License (Consumption on or off Premise)	75.00
(12) Retail Beer License (Consumption on or off Premise)	75.00
(13) Retail Beer License (Consumption off Premise)	50.00
(14) Special Retail License Fee	
30 days or Less	100.00
More than 30 Days	250.00
(15) Special Events Retail License	150.00

SECTION 7-62. Taxes - Levied.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities as follows:

(a) Upon every person, firm and corporation engaged in the business of selling whiskey, wine or liquor at retail there is hereby levied an additional privilege or license tax of ten (10) percentum of the gross purchases made by the licensee from the Alcoholic Beverage Control Board of the State or other wholesale dealer, other than the purchases of table wine.

(b) Taxes on the sale of beer and malt beverages shall be made in accordance with Title 28, Article 5B, Excise Tax on Beer, of the Code of Alabama, 1975, as amended.

(c) Taxes on the sale of table wine are taxed under the Table Wine Act (Act No. 80-382 of the 1980 Regular Session of the Legislature of Alabama) and shall be deducted from the amount considered gross receipts considered hereunder.

SECTION 7-63. Same - Reports and Payment; Delinquency Penalty.

(a) The tax levied under provisions of this Article shall be due and payable in monthly installments on or before the fifteenth day of the month next succeeding the month in which sales are made. On or before the fifteenth day of each month after the tax herein provided shall take effect, every person, firm or corporation upon whom the tax is hereby levied shall render to the City of Enterprise, on a form prescribed by the city, a true and correct statement showing the gross receipts of whiskey, wine or liquors, etc., purchased during the preceding month, which report shall accompany payments of the tax herein levied.

(b) The city shall receive a purchasing statement from the State ABC Store the first of each month. Each licensee shall have until the fifteenth of the month to pay these taxes.

(c) The tax imposed by Section 7-62 shall be paid by each retail beer dealer to the wholesale dealer from whom the retail dealer purchases or otherwise acquires his retail stock, at the rates fixed on or before the fifteenth day of the month next succeeding the date of purchase by the retailer.

(d) Any person who fails to pay the tax herein levied within the time prescribed, shall pay, in addition to the tax, a penalty of 10 percent of the amount of tax, together with the interest thereon, at the rate of 1½ percent per month or fraction thereof, from the date on which the tax herein levied became payable, such penalty and interest to be assessed and collected as part of the tax.

SECTION 7-64. Same - Collection from Purchasers.

All persons subject to the provisions of this tax may add the same to the sales price of the whiskey, wine or liquor sold, and collect from the purchasers, but this is not mandatory; the seller may pay the tax without collecting same from the purchaser.

SECTION 7-65. Same - Records to be Kept.

All persons subject to provisions of this tax shall keep and preserve for a period of three (3) years all invoices, sales slips or evidences received from or issued by the Alabama Beverage Control Store or agency from whom purchases are made, which will be subject to examination at all reasonable times by authorized representatives of the city.

SECTION 7-66. Reporting Delinquencies.

It shall be the duty and responsibility of the city clerk's office to inform the chief of police of the delinquent privilege taxes and licenses that are imposed by this chapter.

Section 7-67. Proximity of Establishment to Church, School or Playground.

No privilege license shall be issued for the retail sale of alcoholic beverages where the entrance of the establishment for which such license applied for is less than three hundred (300) feet from the main entrance of any church building, public or private school building, YMCA building or public playground. Such distance shall be set out and measured in a straight line.

SECTION 7-68. Hours of Closing.

All lounges, clubs, restaurants, or places serving alcoholic beverages will abate the sale of all whiskey, wine, beer, or liquor at 2:00 A.M. These businesses may commence the sale of such beverages at 6:00 A.M., except Sunday. No sales will be made between 2:00 A.M. Sunday and 6:00 A.M. Monday.

SECTION 7-69. Broken Seals, Seating Required.

It shall be unlawful for any person other than the licensee to bring on the premises of a licensee any bottle, can or container of alcoholic liquor or alcoholic beverage if the seal is broken. No person shall be served for on premises consumption unless seated, and no patron shall move drinks from one table to the other.

SECTION 7-70. Drinking Outside of Establishment.

It shall be unlawful for any person to drink or consume said alcoholic liquor or alcoholic beverage outside of the licensee's establishment or to have in his or her possession any opened bottle, can or container of alcoholic beverages.

SECTION 7-71. Purchase by, Sale to, etc., Minors; Misrepresentations as to Age:

(a) It shall be unlawful:

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

2. For any minor person to possess or to consume any alcoholic or intoxicating beverages in any public place, or in any business establishment or club.

3. For any person to sell, furnish, give to, or purchase for any minor person any of such beverages.

4. For any person, directly or indirectly, to falsely represent or attempt to falsely represent that a minor person is not a minor or is not under twenty-one (21) years of age, 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 otherwise to aid or abet such minor person to buy, receive or otherwise obtain any malt or brewed beverage, any wine or liquor, or any alcoholic or intoxicating beverages.

(b) For the purposes of this section the definitions of malt or brewed beverages, wine or liquor, or alcoholic or intoxicating beverages, shall be the same as they are defined in the Code of Alabama 1975, Title 28, as amended.

(c) It shall be considered a false representation that a person is not a minor or is not under twenty-one (21) years of age, that the purchaser fails to disclose that the person making the purchase, obtaining, or securing such malt or brewed beverages, or such wines or liquors, or such alcoholic or intoxicating beverages, is a minor person or has not reached the age of twenty-one (21) years.

SECTION 7-72. Violations - Failure to Pay License or Tax.

It shall be unlawful for any person who is required to pay the license or privilege tax herein provided for to fail to pay the same at the time herein specified, and such offense shall be a continuing offense against the city and each day during which said person shall sell or store such beverages in the city during such default shall constitute a separate offense.

SECTION 7-73. Same - Sale of Unstamped Beer.

It shall be unlawful for any retail beer dealer to have, hold, possess, sell or offer for sale within the corporate limits or jurisdiction of the city subsequent to the fourth day of June, 1972, at 6:00 A.M. (CST), any beer, the container of which does not have securely affixed thereto decal stamps of the nature and in the amount as provided and required by law.

SECTION 7-74. Same - Delivery of Unstamped Beer.

It shall be unlawful for any wholesale beer dealer to ship or deliver directly or otherwise, any beer to or within the corporate limits or police jurisdiction of the city subsequent to the fifth day of June, 1972, at 6:00 A.M. (CST), which does not have securely affixed to each container thereof as provided and required by law, the decal stamps issued therefor.

SECTION 7-75. Same - Possessing Open Containers or Consuming in Public Places.

It shall be unlawful for any person to possess open containers of alcoholic beverages or consume alcoholic or intoxicating beverages while upon or along any public street, road or highway in the city or while in or on any automobile or other motor vehicle on or along any public street, road or highway in the city, or in any public place, except on the premises of a business duly licensed for the retail sales of alcoholic beverages for on premise consumption.

SECTION 7-76. Duty to Maintain Order on Premises; Reports of Assaults, Affrays, etc.

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 open to the public, to maintain order upon the premises and to exclude from the premises any person who is drunk and disorderly or who commits any breach of the peace, or who uses 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 within the city immediately to make an appropriate report to the police department of the city of each assault, assault and battery, or affray, occurring on the licensed premises while said premises are open for business. It shall further be the duty of said person to make a written report of each of said incidents to the police department of the city and to the local field office of the Alcoholic Beverage Control Board within thirty-six (36) hours thereof.

SECTION 7-77. Same - Sale on Public Grounds Prohibited.

Any person who gives away, sells, serves or drinks any alcoholic or malt or brewed beverages in or on any city school buildings and grounds, recreation building, (excluding any private recreation areas or the Enterprise Civic

Center, leased or rented to individuals or clubs for special events), city and/or city school playgrounds, city parks, athletic fields and Bates Memorial Stadium and its complete ground area which all property is owned by the city or its instrumentalities is guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-8, Code of Ordinances, City of Enterprise.

SECTION 7-78. Sexual Conduct and Nudity in Establishments Dealing in Alcoholic Beverages - Purpose of Sections 7-78 through 7-80.

The purpose of sections 7-78 through 7-80 is to prohibit sexual conduct and nudity in establishments dealing in alcoholic beverages and prohibit persons owning, maintaining or operating such establishments from permitting any such prohibited activity.

SECTION 7-79. Same - Definitions.

For the purpose of Section 7-78 through 7-80, the following words, terms, and phrases, when used in these sections shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

(a) **Person** shall mean any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, or any combination thereof, or other entity.

(b) **Establishment dealing in alcoholic beverages** shall mean any business establishment operating within the corporate limits of the City of Enterprise which sells, dispenses or allows the consumption of alcoholic beverages on the premises.

SECTION 7-80. Same - Prohibited.

(a) No person shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or any simulation thereof in an establishment dealing in alcoholic beverages.

(b) No person shall expose to public view any portion of their breasts below the top of the areola or any simulation thereof in an establishment dealing in alcoholic beverages.

(c) No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or simulation thereof within the establishments dealing in alcoholic beverages.

(d) No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any person to expose to public view any portion of their breasts below the top of areola or any simulation thereof within the establishment dealing in alcoholic beverages.

(e) No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, touching, caressing or fondling of the breast, buttocks, anus or genitals or the simulation thereof within an establishment dealing in alcoholic beverages.

(f) No person maintaining, owning or operating an establishment dealing in alcoholic beverages shall allow any sexual demonstration, entertainment, exposition or contest to include wet shirt or any other vulgar, distasteful or immoral act on the premises. Vulgar, distasteful or immoral acts shall be defined as any act performed for the purpose of arousing the sexual desires or attitudes of patrons, employees, owners or operators.

(g) No licensee shall permit the showing of films, still pictures, electronic reproductions or other visual reproductions depicting any of the acts prohibited by this section, or any such acts which are prohibited by law.

SECTION 7-81. Same - Punishment.

Any person violating any of the provisions of this Ordinance shall upon conviction be punished as provided in Section 1-8, the Code of Ordinances, City of Enterprise, Alabama.

SECTION 7-82. Business Outside City and Police Jurisdiction Excluded.

This chapter shall not be construed to apply to any such beverages stored for the purpose of resale or reshipment outside the city and its police jurisdiction and which are actually so resold or reshipped.

SECTION 7-83. Interstate Commerce and Federal Government Business Excluded.

This chapter shall not be construed to tax interstate commerce or any business of the United States Government or any branch or agency thereof.

SECTION 7-84. Chapter Cumulative.

This chapter shall not be construed to repeal any of the provisions of any other Ordinance of the General License Code of the city, but shall be held to be cumulative.

SECTION 7-85. Advertising of Alcoholic Beverages.

There shall be no electric signs, painted signs or signs of any kind displayed outside any place of business advertising alcoholic beverages as enumerated in this Article.

SECTION 7-86. Marking of Licensed Vehicles.

Each person, firm or corporation making distribution sales or deliveries of alcoholic beverages in the City of Enterprise shall clearly display the company markings for license identification on the side panels of each vehicle making such delivery.

SECTION 7-87. Consumption by Employees Prohibited.

It shall be unlawful for any owner, operator or employee of any licensee who is engaged in the sale of alcoholic beverages to consume or allow any employee to consume any alcoholic beverage while performing work or duty on the premises of the licensee.

SECTION 7-88. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the judgment of any court of competent jurisdiction, such judgment shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance.

CERTIFICATE

This is to certify that Ordinance 12-18-84, Alcoholic Beverage, was transmitted to the Mayor on the 19th day of December 1984.

Said Ordinance was returned to the undersigned on 28 December 1984, without signature.

Ordinance 12-18-84 was duly passed and adopted on 18 December 1984, bearing the signature of Council Members Bishop, Murdock and Fleming, and said Ordinance becomes law upon publication as required by law, TIT 11-45-8, Code of Alabama 1975.

/s/Carl W. Griffin, City Clerk, December 28, 1984

CERTIFICATE OF PUBLICATION

This is to certify that Ordinance 12-18-84, Alcoholic Beverage, bearing the signatures of Council Members Bishop, Murdock and Fleming, was duly published in the Enterprise Ledger, a newspaper published and of general circulation in the city of Enterprise, Alabama, in the issue of January 4, 1985.

/s/Carl W. Griffin, City Clerk

CERTIFICATE OF PUBLICATION

This is to certify that Ordinance 1-8-85-A, Amendment to Ordinance 12-18-84, bearing the signatures of the Council Members and the Mayor, was duly published in the Enterprise Ledger, a newspaper published and of general circulation in the City of Enterprise, Alabama, in the issue of January 13, 1985.

/s/Carl W. Griffin, City Clerk

CERTIFICATE

This is to certify that Ordinance 6-4-85-D, Amendment to Alcoholic Beverage Ordinance 12-18-84, was transmitted to the Mayor on the 18th day of June, 1985.

Ordinance 6-4-85-D, duly passed and adopted on June 18, 1985, bearing the signatures of Council Members Bishop, Lester and Thompson, was signed by the Mayor and becomes law upon publication as required by law.

I hereby certify that Ordinance 6-4-85-D was caused by me to be published in the Enterprise Ledger, a newspaper published and of general circulation in the City of Enterprise, Alabama, in the same issue of June 19, 1985.

/s/Carl W. Griffin, City Clerk

ORDINANCE 01-20-09

**AN ORDINANCE ADOPTING AN AMENDMENT TO
ORDINANCE 12-18-84, ALCOHOLIC BEVERAGES.**

**WHEREAS, THE CITY COUNCIL OF ENTERPRISE, ALABAMA DESIRES TO
AMEND ORDINANCE 12-18-84, ALCOHOLIC BEVERAGES;**

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

SECTION 1. Amendment as to Section 7-60(m) Private Club:

Section 7-60(m) of Ordinance 12-18-84 is hereby amended to read as follows:

(m) Private Club:

(a) Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for the pecuniary gain as evidenced by Internal Revenue Service Qualified Exemption Status, 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 only and 5-day waiting period, investigation and ballot and charge and collect dues from elected members. Licensee may offer for sale all classes of alcoholic beverages for on premise consumption only. Provided, however, that all such Class 1 private clubs must hold a private club license 7 days a week if the private club intends to sell alcoholic beverages on Sunday as set out below. In other words, there shall be no dual license allowed, e.g., license for restaurant lounge and license for private club. There shall be but one license such that if the business determines that it shall be a private club, it must follow the requirements of this Section seven (7) days a week. Also, any such private club entrance may not be closer than three hundred (300) feet to the main entrance of any church building, public or private school building, YMCA building, public playground or residence and must contain at least 1,000 square feet on one floor in one room, said area to be equipped with tables and chairs capable of seating at least 50 persons.

(b) Class II. A corporation or association organized or formed in good faith by authority of law and which must have 100 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like. The Club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application only and 5-day waiting period, investigation and ballot and charge and collect dues from elected members. Licensee may offer for sale all classes of alcoholic beverages for on premise consumption only. Provided, however, that all such Class 2 private clubs must hold a private club license 7 days a week if the private club intends to sell alcoholic beverages on Sunday as set out below. In other words, there shall be no dual license allowed, e.g., license for restaurant lounge and license for private club. There shall be but one license such that if the business determines that it shall be a private club, it must follow the requirements of this Section, seven (7) days a week. Also, any such private club entrance may not be closer than three hundred (300) feet to the main entrance of any church building, public or private school building, YMCA building, public playground or residence and must contain at least 1,000 square feet on one floor in one room, said area to be equipped with tables and chairs capable of seating at least 50 persons.

SECTION 3. Amendment as to Section 7-68 "Hours of Closing."

Section 7-68 "Hours of Closing" of Ordinance 12-18-84 is hereby amended as follows:

All lounges, clubs, restaurants, or places serving alcoholic beverages will abate the sale of all whiskey, wine, beer or liquor at 2:00 A.M. These businesses may commence the sale of

SECTION 3. Amendment as to Section 7-68 "Hours of Closing." (Continued)

such beverages at 6:00 a.m., except Sunday. No sales will be made between 2:00 A.M. Sunday and 6:00 A.M. Monday. However, if the business constitutes a private club as set out in Section 7-60(m), as amended above, said private club may serve such beverages on Sunday, including between the hours of 2:00 A.M. Sunday and 6:00 A.M. Monday provided all requirements of this Amendment, Ordinance 12-18-84 and state law are met.

SECTION 4. Authorization to Amend Applications- Enterprise Revenue Department.

The City Council does authorize the Enterprise Revenue Department to modify or otherwise amend its applications for the sale of alcoholic beverages, if necessary, to effectuate the terms of this Ordinance.

SECTION 5. Grandfather Clause; Businesses with Adjoining golf courses exempt from certain requirements.

Any business establishment which currently holds a private club license (e.g., a dual license) and who shall now be required to hold a private club license pursuant to this Amended Ordinance, shall be exempt from the additional requirements of this Amended Ordinance as to the square footage and proximity (to churches, schools, etc.) requirements; provided, if the business establishment changes ownership or location, then such provisions shall then apply. Moreover, any business establishment which is connected to, adjoins and whose grounds are a part of at least a nine hole golf course shall be exempt from the square footage and proximity requirements referenced above.

SECTION 6. Other provisions remain in full force.

All other provisions of Ordinance 12-18-84 not in conflict with this Amendment remain in full force and effect.

SECTION 7. Severability.

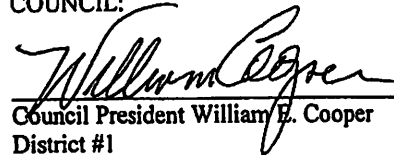
If any section, sentence, clause, phrase, or part of this ordinance is for any reason declared to be invalid by the valid judgment or decree of a court of competent jurisdiction, such decision shall not affect any remaining sections, sentences, clauses, phrases, or parts of this ordinance.

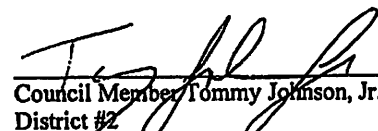
SECTION 8. Effective Date.


This ordinance shall take effect upon its approval by the City Council, or upon its otherwise becoming law, but shall nevertheless be published as required by law.

Adopted This 3 Day Of February 2009.

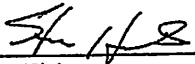
COUNCIL:


Council President William E. Cooper
District #1



Council Member Tommy Johnson, Jr.
District #2


Council Member Kirk Donaldson
District #3

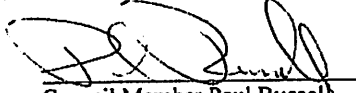
ATTEST:



Steve Hicks
City Clerk/Treasurer

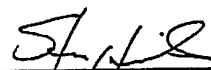


Council Member Wallace "AJ" Miller, Jr.
District #4



Council Member Paul Russell
District #5

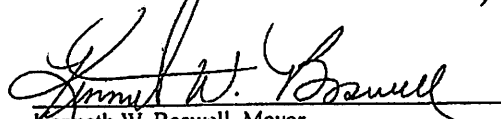
Transmitted to the Mayor this 5 day of February 2009.



Steve Hicks
City Clerk/Treasurer

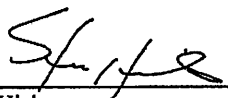
ACTION OF THE MAYOR:

Approved this 5 day of February, 2009.



Kenneth W. Boswell, Mayor

ATTEST:



Steve Hicks
City Clerk/Treasurer

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