

ORDINANCE NUMBER 2012-13

AN ORDINANCE OF THE CITY OF HAMILTON, ALABAMA,
TO BE KNOWN AS THE
"HAMILTON ALCOHOLIC BEVERAGE ORDINANCE"

ARTICLE I. ALCOHOLIC BEVERAGE CONTROL**DIVISION 1. GENERALLY****SECTION 1-1. SHORT TITLE.**

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

SECTION 1-2. PURPOSE.

This article is enacted for the purposes, among others, of promoting the health and general welfare of the City, of establishing reasonable standards for the regulation and control of the licensing and sales of Alcoholic Beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable Persons, Associations or Corporations from engaging in or having any interest in the sale and promotion of Alcoholic Beverages. This article shall be construed as an exercise by the City of the police power of the state delegated to the City, in the regulation of the trafficking of Alcoholic Beverages within the City as provided by state law and herein.

SECTION. 1-3. DEFINITIONS.

Whenever used in this article, the definitions set forth in the Code of Ala. 1975, §28-3-1 and in the Alabama Administrative Code 20-x-2.01 are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:

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

Applicant is a Person, Association or Corporation applying for a License with the City.

Association is a partnership, limited partnership, limited liability company (LLC), any non-corporate business entity recognized by the State of Alabama or any form of unincorporated enterprise owned by two or more Persons.

Bartender/Server is an employee of a retail Alcoholic Beverage Licensee who is directly involved with the opening, mixing, dispensing, serving, or final sale of Alcoholic Beverages to a customer of the licensed establishment.

Beer or Malt or Brewed Beverage unless specifically provided for otherwise in this Ordinance, any beer, lager beer, ale, porter, malt, or brewed beverage, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of thirteen and nine-tenths percent by volume, by whatever name the same may be called.

Board is the Alabama Alcoholic Beverage Control Board.

Brandy are all beverages which are an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the beverage, as bottled at not less than 80 degree proof.

Business Owner is a Person, Association or Corporation issued a privilege license by the City to conduct routine business.

Carton is 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.

Church is an entire house or structure set apart primarily for use for purposes of public worship, and whose sanctuary is tax exempt under the laws of this state, and in which religious services are held and

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

City is the City of Hamilton, Alabama and/or the City Council of the City of Hamilton.

City Alcoholic License Fee is a fee charged by the City to a Person, Association or Corporation who has been granted approval by the Alabama Alcoholic Beverage Control Board for the privilege of selling Alcoholic Beverages within the City as herein enumerated and defined.

City Alcohol License Review Committee is the City Clerk, or designated representative; the Chief of Police, or designated representative; the Municipal Court Clerk, or designated representative; the Chief of Fire, or designated representative and one other member to be appointed by the City. The City's appointed representative shall serve a term of two years.

Club

- a. Class I. A Corporation or Association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation, and ballot and charge and collect dues from elected members.
- b. Class II. A Corporation or Association organized or formed in good faith by authority of law and which must have at least 100 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation, and ballot and charge and collect dues from elected members.

Container is a 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.

Convenience Store is an establishment that sells convenience items, snacks, grocery items, gasoline, and/or other motor fuels. A Convenience Store shall not be considered a Lounge Retail Liquor store if no more than 25 percent of the floor space, excluding coolers and dry storage area, is dedicated to the public display of Alcoholic Beverages.

Corporation is 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.

Distributor is any Person, Association or Corporation transporting Alcoholic Beverages within the City for such entity's own retail use or for delivery to a retailer whether or not the same is owned by such Person, Association or Corporation.

Downtown Revitalization Area is the area of the City so designated in the Downtown Revitalization Plan adopted by the City.

Engaged in Business a Person, Association or Corporation shall be deemed engaged in business within the City if that Person, Association or Corporation has a fixed place of business within the City, or is, pursuant to agreement of sale, expressed or implied, that Person, Association or Corporation delivers any Alcoholic Beverage, beer or wine within the City, or if that Person, Association or Corporation performs, within the City, any act authorized to be done only by the holder of any license issued by the Board.

Fixed Place of Business is any place where any Alcoholic Beverage is kept or stored for sale or delivery.

Fortified wine or Vinous Liquor is any wine containing more than 14.9 percent alcohol by volume but not more than 24 percent, or such other percentages as may be designated by the Legislature of Alabama. Fortified wine is vinous liquor.

Grocery Store is 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 percent of its total gross sales and whose floor space is at least 3,500 square feet.

Hotel is a building or buildings held out to the public for housing accommodations of travelers or transients, and shall include a motel, but shall not include a rooming house or boarding house.

Importer is any Person, Association or Corporation engaged in importing Alcoholic Beverages manufactured outside of the United

States of America into Alabama or for the sale or distribution in Alabama, or to the Board or to a wholesale licensee of the Board authorized to receive such product.

License is the contract between the Alabama Alcoholic Beverage License Control Board and the City of Hamilton to said Licensee to manufacture, sell, warehouse, distribute, or transport and Alcoholic Beverages in the manner provided by law.

Licensed Premises is any portion of the interior of any building or structure accessible to the public, employees, owners, licensees, or agents of licensees, together with the curtilage thereof, and any living quarters contained therein.

Licensee means any Person, Association or Corporation licensed by the City for the privilege of engaging in a business involved in the sale of Alcoholic Beverages.

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

Lounge Retail Liquor License may be issued to any Person, Association or Corporation duly authorized to do business in the State of Alabama and the City once all state and local requirements are met and approval is granted. There shall be two classes of Lounge Retail Liquor Licenses:

Class I will permit the Licensee to sell Alcoholic Beverages for on-premises and off-premises consumption. All sales for off-premises consumption shall be in original unopened containers.

Class II will permit the Licensee to sell Alcoholic Beverages only for off-premises consumption in the original unopened containers and shall comply with the requirements of Alabama Code 20-X-5-.13.

A Lounge Retail Liquor Licensee shall not admit any Persons under 19 years of age.

Manager is an employee of a Licensee who is given the responsibility and authority by the Licensee to direct the operation of the Licensed Premises, either solely or in conjunction with other similarly designated employees, by directing the activities of other employees of the Licensed Premises. Such direction could include, but not be

limited to, such responsibilities as assignment of employee tasks, scheduling of employee hours, evaluation of employee performance, and employee hiring or discipline.

Manufacturer is any Person, Association or Corporation engaged in the producing, bottling, manufacturing, distilling, rectifying, or compounding of Alcoholic Beverages in this City and/or State or for sale or distribution in this City and/or State or to the Board or to a Licensee.

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

Merchandise Store with Incidental Table Wine Sales is an establishment principally operated for the sale of apparel, home decor, art, jewelry, antiques, or specialty gift merchandise, and that also offers the sale of a diversified selection of both domestic and imported table wine, but not beer or liquor, in unopened containers for off-site consumption. Such establishments may apply for a license for retail table wine for off-premises consumption. The sale of Alcoholic Beverages shall be no more than ten percent of its gross annual sales, and no more than 15 percent of the public floor space may be dedicated to the public display of Alcoholic Beverages. In addition, the owner of a Merchandise Store with Incidental Table Wine Sales may apply with the City for a retail table wine license for on-premises consumption for the purpose of offering up to two wine tastings per month of their product. With respect to these tastings, no Alcoholic Beverages shall be served free of charge.

Minor is a Person under 21 years of age.

Open container is a container of Alcoholic Beverage, which is other than in the manufacturer's sealed condition. This provision shall not apply to a bottle of wine that has been re-sealed in strict accordance with Section 28-3A-20.1 of the Code of Alabama and as follows: If a customer of a Person, Association or Corporation holding a license to sell alcoholic beverages for consumption on the licensed premises has purchased and consumed a portion of a bottle of wine on the licensed premises, then that customer may remove said bottle of wine from the licensed premises only if the licensee or the licensee's agent has either (1) re-corked the bottle of wine with the original or similar type cork that is re-inserted in the bottle and the cork can only be removed by a corkscrew or similar device; or (2) securely resealed the bottle in a bag designed so that it is visibly apparent that the re-sealed bottle of wine has not been tampered with and shall provide a dated receipt for the resealed bottle of wine to the customer.

Person is every natural person, association or corporation. Whenever used in a clause or provision 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 a Corporation shall mean the officers thereof, except as to incorporated clubs, the term Person shall mean such individuals who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

Person in Charge (PIC) means a Person, whether owner, partner, officer, or employee of the Licensee, who is designated by the Licensee as a responsible party for the Licensee in ensuring compliance with the law and regulations of the Code of Alabama, the Alabama Alcoholic Beverage Control Board, and the ordinances of the City as they apply to the operation of a business having retail sales of Alcoholic Beverages.

Privilege License means a privilege license issued by the City to a Person, Association, or Corporation to conduct routine business.

Public Place means any place or gathering which the public generally attends or is admitted to either by invitation, common consent or right, or by payment of an admission or other charge, and, without limiting the foregoing, shall include any streets, alleys, sidewalks, public easements, or rights-of-way, parking lots designed for use by the general public, public buildings, buildings which are open to the public, including, but 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 Alcoholic Beverages and provided that no private gathering is included within the meaning of Public Place with respect to the owners or occupants of such premises or place or to any persons specifically invited therein.

Rear-Most Wall is that wall furthest and opposite to the entrance of a business.

Restaurant, Class I is 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 in which a diversified selection of Meals, refreshments and Alcoholic Beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following additional requirements:

- (1) A dining space containing 1,000 square feet or more on one floor in one room shall have a mandatory Class I designation.
- (2) The dining room shall be equipped with tables and chairs accommodating at least 50 Persons at one time and adequately air conditioned and heated as appropriate.
- (3) All spaces of a Restaurant, Class I must comply with the Hamilton Building Code requirements.
- (4) A kitchen separate and apart from said dining area, but adjoining the same, in which Meals are prepared for consumption by the public in the dining area.
- (5) Such place shall meet the minimum Board requirements for an on-premises license.
- (6) The serving of Meals shall constitute the principal business of such establishment, with the serving of Alcoholic Beverages being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of Alcoholic Beverages shall not constitute more than 40 percent of the total gross receipts of the business. The Licensee shall maintain separate cash register receipts, one for Meals (and related items) and one for Alcoholic Beverages. In addition, the Licensee shall maintain all invoices for the purchases of food and all Alcoholic Beverages and shall preserve such records for not less than three years from the date of purchase of said Alcoholic Beverage. All such records shall be available for inspection and audit at the Licensed Premises within the City during regular business hours as the City Clerk, or duly authorized representative, or the City's Alcoholic License Review Committee, or its duly authorized representative, may request.

Restaurant, Class II is 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 in which a diversified selection of Meals, refreshments and Alcoholic Beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following additional requirements:

- (1) A dining space of less than 1,000 square feet on one floor in one room.
- (2) Said dining room shall be equipped with tables and chairs to accommodate more than five (5) Persons meeting at one time and shall comply with the Hamilton Building Code requirements.
- (3) The dining space shall be appropriately air conditioned and heated.

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

(5) Such place shall meet the minimum Board requirements for an on-premises license.

(6) The serving of Meals shall constitute the principal business of such establishment, with the serving of Alcoholic Beverages being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of Alcoholic Beverages shall not constitute more than 40 percent of the total gross receipts of the business. The Licensee shall maintain separate cash register receipts, one for Meals and one for Alcoholic Beverages. In addition, the Licensee shall maintain all invoices for the purchases of Meals (and related items) and all Alcoholic Beverages and shall preserve such records for not less than three years from the date of purchase of said Alcoholic Beverage. All such records shall be available for inspection and audit at the Licensed Premises within the City during regular business hours as the City Clerk, or duly authorized representative, or the City's Alcoholic License Review Committee, or its duly authorized representative, may request.

Examples, without limitation, of a Restaurant, Class II are as follows:

- a. A place of business meeting all other required criteria which may not be open for all meals of each day.
- b. Delicatessen, dinner theaters, cafes, eateries, bistros and similar small establishments.
- c. A place of business meeting all other required criteria but also presenting a minimum of a nine hole golf course, public or private, that may also sell food and alcoholic beverages on the golf course, with the following exception, the gross receipts from the serving of Alcoholic Beverages shall not constitute more than 80 percent of the total gross receipts of the business' Meals and Alcoholic Beverages operation.

Retailer is any Person, Association or Corporation licensed by the Board and the City to engage in the retail sale of Alcoholic Beverages to the consumer.

Sale or Sell is any transfer of Alcoholic Beverages for a consideration, and any gift in connection with, or as a part of, a transfer of property other than Alcoholic Beverages for a consideration. These terms shall include any exchange, barter or

trafficking of Alcoholic Beverages.

School is a state accredited public or private elementary, intermediate, middle, junior high, senior high school, two year and/or a two-year educational institution operated under the authority and control of the Department of Postsecondary Education. This shall include buildings used for the purpose of imparting instruction to children in Grades K-12, when provided by a public, private, denominational, and parochial school, except those buildings used primarily for adult education or college extension courses.

Specialty Beverage Store is an establishment principally operated for the sale of a diversified selection of both domestic and imported beer and/or wine, but not liquor, in unopened containers for off-site consumption. Such establishments may apply for the following licenses: (i) Retail table wine for off-premises consumption, (ii) Retail beer license for off-premises consumption, (iii) Retail beer license for on-premises consumption, and (iv) an on-premises beer and wine license for the purpose of offering up to no more than two wine/beer tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge. In such case, the establishment may also apply for a retail table wine license for on-premises consumption.

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

- (i) Retail table wine license for off-premises consumption,
- (ii) Retail beer license for off-premises consumption,
- (iii) Retail table wine license for on-premises consumption, and
- (iv) Retail beer license for on-premises consumption.

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

A specialty wine and beer establishment must also offer incidental food service, including the sale of food for on-premises consumption and the sale of containerized, gourmet foods for off-premises consumption, but not in such a manner that the establishment will constitute either a Restaurant Class I or Restaurant Class II.

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

For purposes of this section, the phrase "diversified selection" shall mean a selection of no less than 20 different commercially available types of wines (with at least six bottles of each type in stock at the premises), and no less than 15 different commercially available types of beer (with at least one case of each type in stock at the premises).

For purposes of this section, "in stock at the premises" shall be determined at the opening of business of the specialty wine and beer establishment on any given day.

Table Wine is any wine containing not more than 14.9 percent alcohol by volume or such other percentages as may be designated by the Legislature of Alabama. Table wine is not liquor, spirituous or vinous.

Unopened Container means a container containing Alcoholic Beverages which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

Vehicle is any means of transportation by land, water or by air.

Wholesaler is any Person, Association or Corporation licensed by the Board and the City to engage in the sale and distribution of table wine and beer, or either of them, within this State and City, at wholesale only, to be sold for export or to retail licensees or other wholesale licensees or others within this state lawfully authorized to sell table wine and beer, or either of them, for the purpose of resale only.

Wine is 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 of America, containing not more than 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.

SECTION. 1-4. LOCATION.

(a) In addition to all other regulations and restrictions, no Person, Association or Corporation shall be authorized for the sale of on-premises or off-premises consumption of Alcoholic Beverages unless such Person, Association or Corporation shall first meet all requirements of the Hamilton Zoning Ordinance.

(b) In addition to all other regulations and restrictions, no Person, Association, or Corporation shall be authorized for the sale of on-premises or off-premises consumption of Alcoholic Beverages where the proposed Licensed Premises of the Person, Association or Corporation is less than 200 feet from a Church or School. The aforesaid distance restriction in this subsection shall not apply in the following enumerated cases:

(1) Where the proposed Licensed Premises are separated from the Church or School by a state or federal highway.

(2) Where the Church or School was established and operating after the Person, Association or Corporation became licensed hereunder and said license has not been abandoned or discontinued for a period of 12 months; or

(3) Where the Licensed Premises is a Grocery Store; or

(c) A Licensee may be exempted from Section 1-4 (b) if the proposed Licensed Premises is located in the Downtown Revitalization Area. This exemption shall be at the City's discretion when considering the public's health, safety and welfare. The City maintains the authority to require the Applicant to modify the proposed Licensed Premises to ensure the nature, character and privacy of property located within 200 feet of the proposed Licensed Premises.

(d) When measuring distances for the purposes of this Section, the closest exterior wall of the closest building in the Church or School, wherein an essential function or activity of the Church or School is carried on shall constitute the beginning point for measurement. Measurement shall be made from the beginning point to the closest point on the exterior wall of the proposed Licensed Premises. The method of measurement is a straight line from the aforementioned defined points.

SECTION. 1-5. Maintenance of order; report of violation.

It shall be the duty of each Licensee and Person In Charge, while the Licensed Premises are open to the public, to maintain order upon the Licensed Premises and to exclude from the Licensed Premises any person who appears to be drunk, drunk and/or disorderly or who commits any breach of the peace, or who uses or engages in offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each Licensee and/or Person In Charge of any Licensed Premises within the City, to

make an immediate and appropriate report to the police department of the City of each assault, assault and battery or fray, occurring on the Licensed Premises while said Licensed Premises are open for business. Each Licensee and/or Person In Charge shall further make a written report of each said incident to the police department of the City and to the local field office of the Board within 36 hours thereof.

SECTION. 1-6. Offenses in public.

(a) It shall be unlawful for any Person, Association or Corporation to drink, sell, serve, dispense or give away, or attempt to drink, sell, serve or give away, any Alcoholic Beverages, while upon or in a Public Place in the City.

(b) It shall be unlawful for a business licensed by the City, whether or not the business is licensed to sell or furnish alcohol, to allow patrons, customers, invitees or guests to bring Alcoholic Beverages into the business.

(c) Unless specifically provided for herein, it shall be unlawful for patrons, customers, invitees or guests to bring Alcoholic Beverages onto premises licensed to do business by the City, whether or not the business is licensed to sell or furnish alcohol.

SECTION. 1-7. Sales to visibly intoxicated Persons.

It shall be unlawful for any Person, Association or Corporation, or for any employee, servant or agent of any Person, Association or Corporation to sell, or offer for sale, any Alcoholic Beverage to any Person visibly intoxicated.

SECTION. 1-8. Misrepresentation of age of Minor.

It shall be unlawful for any Person, Association or Corporation, directly or indirectly, to falsely represent that a Minor Person is not a Minor, by means of which false representation such Person, Association or Corporation aids or abets or attempts to aid or abet, such minor Person to buy, receive or otherwise obtain any alcoholic beverage.

SECTION. 1-9. Authorized hours.

It shall be unlawful for any Person, Association or Corporation, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve, dispense or offer for reward, or to offer to serve

or dispense for reward any alcoholic beverage, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 12:00 a.m. and 8:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of any week, or between the hours of 12:00 a.m. on Sunday of any week and 8:00 a.m. of the following Monday.

SECTION. 1-10. Regulation of conduct in clubs, etc.

It shall be unlawful for any Person, Association or Corporation or the Person In Charge thereof at any Licensed Premises to permit, allow, conduct or condone any of the following:

(1) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashier or any lewd or indecent conduct.

(2) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(3) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.

(4) Acts involving the displaying of the anus, vulva or genitals.

(5) Permitting any patron, customer or member to touch, caress or fondle the breasts, buttocks, anus or genitals, or any part of the body or clothing of a performer or entertainer.

(6) Permitting the showing of films, still pictures, electronic reproductions, websites or other visual reproductions depicting:

a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

b. Any Person being touched caressed or fondled on the breasts, buttocks, anus or genitals.

c. Scenes wherein a Person displays the vulva or the anus or the genitals.

d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in this SECTION.

(7) Any employee including but not limited to, waiter, waitress, dancer, entertainer, performer or model employed upon the Licensed Premises to sit at tables with the customers or members and guests

while so employed and during the time that said establishment is open for business.

(8) Any Person at the time employed or engaged on the Licensed Premises as an entertainer or performer, to also serve as a waiter or waitress while so employed

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

SECTION. 1-11. Records; reports.

It shall be the duty of each Person, Association or Corporation subject to the license tax imposed by this article to keep full and complete records of all purchases, sales and deliveries of Alcoholic Beverages, from which records can be readily obtained information as to the correct amount of license tax due the City.

As a part of such records, each wholesaler shall keep an individual ledger or card account for each and every record, each wholesaler shall keep an individual ledger or card account for each of his customers, and said ledger or card account shall show the correct name and address of each Person, Association or Corporation to whom any Alcoholic Beverages are delivered, together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by his authorized agent.

Each retailer shall keep an individual ledger or card record showing the correct name and address of each Person, Association or Corporation from whom he purchased Alcoholic Beverages, a delivery ticket showing each such purchase, the date thereof and the number of cases purchased.

The aforesaid records shall be kept posted currently and shall be preserved for not less than three years succeeding the calendar year in which the Alcoholic Beverages were purchased, delivered and/or sold. All of such records shall be open for inspection and audit at the Licensed Premises within the City during such regular business hours as the City Clerk, or duly authorized representative, or the City's Alcohol License Review Committee, or its duly authorized representative, may request. Failure to keep any of the records

required by this section, or elsewhere in this article, or by any amendment thereto, or refusal to make the same available to the City Clerk, or duly authorized representative, or the City's Alcohol License Review Committee, or its duly authorized representative, shall constitute grounds for administrative penalties imposed by this ordinance, including, but not limited to, fines and/or suspension or revocation of any license issued under this article. In addition thereto, in January of each year, each Person, Association or Corporation who is obligated to pay a privilege or excise tax to the City based on the gross receipts of the business (pursuant to Section 1-79) shall file an annual report, made under oath, showing the gross receipts of the business for each month during the prior calendar year.

SECTION. 1-12. Packaging of beverages.

Retail Licensees for sale of off-premises consumption of individual, or packages of six or less, Alcoholic Beverages must place each container thereof in a bag, box or other similar opaque covering prior to the customer's leaving the Licensed Premises.

SECTION. 1-13. Open containers.

It shall be unlawful for any Person, Association or Corporation to, or allow another Person to:

- (1) Possess, consume or otherwise use any Open Container while upon, in, or along a Public Place.
- (2) Possess Alcoholic Beverages in an open glass, bottle, cup, can, keg, bag or other receptacle, while upon, in or along a Public Place while in any Vehicle.

SECTION. 1-14. Discrimination prohibited.

It shall be unlawful for any Licensee to discriminate against any Person with respect to the sale of any food, beverage, product, cover charge, or admission charge based upon race, color, creed, or sex. It is specifically provided that no Licensee shall have or permit any entertainment, show, or presentation on the Licensed Premises to which any Person is excluded based upon race, color, creed, or sex. This section shall apply to the Licensee, Manager, Person In Charge, and to any employee or agent of the Licensee authorizing, permitting, or

committing any violation hereof.

SECTION. 1-15. Alcohol License Review Committee created; powers and procedures.

(a) There is hereby created for the purpose of assisting and advising the City in the review of applications for Licenses, and inquiries and recommendations concerning complaints or disciplinary action of a Licensee, a committee to be known and designated as the City Alcohol License Review Committee (referred to as the "Committee" in this Section) to be composed as follows: the City Clerk, or designated representative; the Chief of Police, or designated representative; the Municipal Court Clerk, or designated representative; the Chief of Fire, or designated representative and one other member to be appointed by the City Council to serve a term of two years. The Chief of Police shall act as liaison to the City on behalf of the Committee. The Committee shall hold meetings as are necessary to consider applicants for Licenses, resolve matters of public concern, or make inquiry into the compliance of a current Licensee with this Ordinance.

(b) The Committee shall review the information contained within the application for a License and shall submit a written recommendation to the City concerning the approval or disapproval of the application before the Applicant appears before the City.

(c) The Committee shall investigate complaints, or initiate its own inquiry into conditions which may violate provisions of this Ordinance and which concern the operation of any Licensed Premises and the sale of Alcoholic Beverages.

(d) The Committee shall have the authority to require the Applicant and/or Licensee to produce records for the Committee's review related to the operation, ownership, or management of the Licensed Premises or the proposed Licensed Premises. The Committee shall promulgate procedures for documenting and investigating complaints concerning the operation of Licensed Premises, as well as establishing a method of documenting violations of this Ordinance by a Licensee.

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

SECTION. 1-16. Alcohol License Tax Bond and Liability Insurance.

(a) It shall be the duty of each Person, Association or Corporation subject to a City Alcohol License Fee, privilege tax or excise tax

imposed by this Ordinance to deliver to the City a bond conditioned to promptly pay to the City all such amounts as are required to be paid to said City under the terms of this Ordinance, or any amendment hereto, and any other amount under the terms of this article, or any amendment hereto, and any other amount which may become due to the City for any City Alcohol License Fee, privilege tax, or excise tax becoming due after the date of the bond. The amount of the bond shall be \$10,000.00 for each Licensed Premises of the Person's, Association's or Corporation's business. Such a bond must remain in place continuously during the entire period that the Person, Association or Corporation is subject to the City Alcohol License Fee, privilege tax, or excise tax imposed by this Ordinance.

(b) With respect to those instances where the consent and approval of the City is required with respect to the issuance of a License, such consent and approval will not be granted where the bond described in this Section has not been delivered to the City Clerk, or the Clerk's designated representative.

Moreover, where such a bond is required by this Section, no License shall be granted, renewed, maintained, or allowed to be transferred where the City Clerk or her authorized representative, has not received a valid and binding bond as required by this Section. Said bond shall be posted in substantially the same manner and form as shown below:

CITY OF HAMILTON
ALCOHOL LICENSE FEE BOND

That _____, as Principal, and _____, as Surety, are held and firmly bound unto the City of Hamilton, Alabama, a municipal Corporation, in the sum of Ten Thousand Dollars (\$10,000.00), for the payment of which well and truly to be made we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing is such, however, that WHEREAS, as one of the conditions precedent to the consent and approval of the City with respect to the issuance of an alcoholic beverage license, or to the granting, renewal, maintenance, transfer or allowance of a privilege license, the Principal is required to deliver to the City of Hamilton, Alabama, a bond conditioned to promptly pay to said City all such amounts as are required to be paid to said City under the terms of Ordinance No. 2012-___, or any amendment thereto, and any other amount which may become due to the City of Hamilton, Alabama for any Alcohol License Fee, privilege tax, or excise tax imposed by said Ordinance and becoming due after the date of the bond.

NOW, THEREFORE, the condition of this obligation is such, that if the Principal shall faithfully comply with all the laws and ordinances of the City of Hamilton now in force, or that may hereafter be adopted, and will promptly pay to said City of Hamilton, Alabama all such amounts as may become due as required under the terms of the above license, then this obligation is to become null and void; otherwise to remain in full force and effect.

If the Surety shall so elect, this bond may be cancelled by providing notice through certified mail to the City Clerk of the City of Hamilton, or her designated representative. This notice shall provide for 30 days' notice to the City of Hamilton and this bond shall be deemed cancelled at the expiration of said 30 days; the Surety remaining liable, however, subject to all the terms, conditions, and provisions of this bond, for any acts covered by this bond which may have been committed by the Principal up to the date of such cancellation.

IN WITNESS WHEREOF, the said Principal and the said Surety have hereunto set their hands and seals at Hamilton, Alabama on this the ____ day of _____, 20 ____.

Principal: _____ Surety: _____

BY _____ By: _____

(SEAL)

(SEAL)

(c) It shall be the duty of every Person, Association or Corporation as a condition precedent to the issuance of a License to keep and maintain the following insurance coverage with an insurance company approved by the City:

(1) A policy of alcohol liability insurance in the aggregate limit of not less than One Hundred Thousand Dollars (\$100,000.00), listing the City as the Certificate Holder; and

(2) A policy of premise liability insurance in the aggregate limit of not less than One Hundred Thousand Dollars (\$100,000.00), listing the City as the Certificate Holder.

SECTION. 1-17. Additional Regulations for Lounge Retail Liquor Licensees.

(a) In addition to all other regulations and restrictions, no Person, Association or Corporation shall be authorized for a Lounge Retail Liquor License, either Class I or Class II, unless such Person, Association or Corporation shall first meet all requirements of the Hamilton Zoning Ordinance.

(b) In addition to all other regulations and restrictions, no Lounge Retail Liquor License shall be authorized where the proposed Licensed Premises are less than two hundred (200) feet from another Lounge Retail Liquor Licensed Premises. Measurements shall be in accordance with Section 1-4 LOCATION. This subsection shall not apply to Restaurants, Class I or Class II, or Hotels.

(c) A Lounge Retail Liquor Licensee, in addition to any and all other regulations, is required to have adequate parking with lined parking spaces and the entire parking area is to be well-lit for the exclusive use of that facility.

(d) A Lounge Retail Liquor Licensee must also comply with all applicable requirements of the Alabama Alcoholic Beverage Code and the corresponding regulations.

SECTION. 1-18. Advertising.

It shall be unlawful for any business to display signs of any kind advertising Alcoholic Beverages, whether electric, painted, or of any other nature, outside of any place of business or inside any place of business in a position visible from outside the building, except on the Rear-Most Wall. This prohibition does not apply to aisle or floor merchandise displays not generally visible from outside the

building. Any signage otherwise placed shall make no reference to Alcoholic Beverages. There shall be no signs or banners outside the Licensed Premises of any Licensee which advertise a particular manufacturer or brand of beer except that special events shall be permitted to have such signs and banners which advertise a particular brand of Alcoholic Beverage. Otherwise, there shall be no advertising or Alcoholic Beverages by means of billboards or other fixed signs within the City. Display of advertising and violation of this section shall be considered a violation of the ordinance and punishable in accordance therewith.

SECTIONS. 1-19 through 1-70. Reserved.

DIVISION 2. LICENSE

SECTION. 1-71. Applicability when City approval required.

In those instances where the consent and approval of the City is required for a License, other than where specified by statute, the application provisions of this article shall apply.

SECTION. 1-72. License Required; Transfer of License, Suspension; Display.

(a) *License Required.* It shall be unlawful for any Person, Association, or Corporation to have in such Person's, Association's, or Corporation's possession any Alcoholic Beverages, within the City, for the purpose of sale, or to sell, or keep for sale, or offer for sale, any Alcoholic Beverages, without having first procured from the City a privilege license and from the Board the appropriate alcoholic beverage license thereof. The City is hereby authorized to allow the address for the Licensed Premises to be changed from one place to another within the City, as the City may determine appropriate; but shall not allow the transaction of business at a place for which the license could not originally have been issued lawfully.

(b) *Transfer.*

(i) In the event of a change of ownership of a licensed establishment, the current licensee (the "transferor") and the buyer (the "transferee") shall be required to complete the "City of Hamilton Transfer Request Alcoholic Beverage License" form, along with paying the non-refundable transfer filing fee, with the City Clerk indicating this occurrence prior to either completing the sale of the licensed business, or relinquishing management or financial control of the business operation, whichever occurs first.

(ii) The transferor and transferee must also complete a transfer application with the State Alcoholic Beverage Control Board within the time limits prescribed in the Alabama Administrative Code, SECTION 20-X-5-.10.

(iii) The transferor shall continue to be responsible for the conduct and operation of the possession and selling of alcoholic beverages on the licensed premises until the ABC Board and the City approves said transfer and issues the appropriate license.

(iv) The transferor shall be responsible to remain apprised of all activity associated with a transfer application.

(v) Upon failure of a transferee to submit a completed application in a timely manner as provided herein, the transfer application will be deemed void and the transferor shall either resume control and operation of the licensed premises within five days thereafter or the license shall then be void.

(vi) A license shall not be transferred if:

(vi.1) the City of Hamilton has denied or refused to renew a license to the transferee, if said action was based in part on the transferee's qualifications, conduct, or fault within the last five (5) calendar years.

(vi.2) the City of Hamilton has revoked and/or suspended any license held by the transferee, or imposed fines against the transferee in a cumulative amount of \$2,000 or more, within the last three (3) calendar years.

(vi.3) For any reason enumerated in the Alabama Administrative Code, Section 20-X-5-.10(5).

(vii) Upon request of the City Clerk, or designated representative, or the City Alcohol License Review Committee, or its designated representative, any Transfer Request applicant may be requested to produce records of the business or the transaction surrounding the sale of the business to determine the parties involved and/or the effective date of the transaction. These records include, but are not limited to, lease agreements, land sale agreements, bank statements, stock transfers, minutes of corporate board meetings, and/or purchase invoices. Any failure to produce the requested records, or a determination by the City that the transaction is not in

compliance with the requirements specified herein, will result in an immediate forfeiture of the City License upon notification of this determination and an opportunity for a public hearing by the City.

(c) *Substantial Change in Ownership.* Licenses issued by the City shall be deemed to expire, terminate, or otherwise be void when there is a substantial change in ownership in the Licensed Premises, or when a Licensed Premise is leased, rented, or abandoned, or when possession is otherwise surrendered to another party. Provided, however, that an applicant for a new license at a currently Licensed Premise may be allowed to operate the establishment for a period not to exceed 60 days if said applicant is in compliance with subsection (b) of this Section. In such case, the original Licensee shall continue to be responsible for the conduct, operation and City tax liabilities of the establishment until such time as the City, in the new licensee's name, issues a license.

(d) Upon the death of an individual Licensee, sale of the Licensed Premises or temporary closing of the Licensed Premises for a period in excess of 30 days, the License shall be immediately returned to the City Clerk, or designated representative, to be held pending the reopening of the business. In the event the temporary closing is due to any renovation, remodeling, or repair to the Licensed Premises, the Licensee shall provide written evidence of compliance with applicable building, fire, and health codes to the City Clerk, or designated representative, prior to the release of the License.

(e) For the purposes of this Section, and to assist in defining a substantial change in ownership, the sale or transfer of 25 percent or more of a Corporation's stock shall constitute a substantial change in ownership of the licensee.

(f) The City shall have the right to revoke any privilege license issued by the City for any violation of this article or the Board rules and regulations, after notice and opportunity for a hearing before the City.

(g) Every privilege license issued by the City to conduct normal and routine business and license issued by the Board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the Licensed Premises.

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

SECTION. 1-73. Application for License; deposit.

Each applicant seeking the consent and approval of the City for a License shall make application to the City as required in this Ordinance. Said application shall be upon an appropriate form supplied by the City Clerk, or duly authorized representative, and shall be signed and verified by oath or *affirmation* by the Licensee, if a natural Person, or in the case of an Association, by a partner or member, or in the case of a Corporation, by an executive officer thereof. The applicant shall deposit with the City Clerk the required application fee that includes the background check with the Alabama Bureau of Investigation and the amount of publication costs to be incurred hereunder upon filing the application.

At a minimum, the application shall contain the Applicant's name and date of birth, or creation, if an Association or Corporation, address and telephone number of the Person, Association and Corporation making said application, the occupation and place of employment of the Person making said application and any other information deemed fit and proper by the City Alcohol License Review Committee.

The Alcohol License Review Committee shall adopt an application in compliance with these requirements.

SECTION. 1-74. Review of application.

(a) The application shall be submitted to the City Clerk, or designated representative as required by Section 1-73. The City Clerk shall present the application to the City Alcohol License Review Committee for further investigation.

(b) In the event of approval by the City, the City Clerk, or designated representative, shall be responsible for ensuring that written approvals of the City Alcohol License Review Committee, the departments of police, building, fire, the planning commission, and the City Clerk, or designated representative, are included as a part of the application indicating the satisfactory compliance with the applicable requirements for each respective department.

(c) Subsequent to the City's approval and the applicant's compliance with subsection (b) of this Section, the City Clerk, or designated representative, is hereby authorized to indicate, and communicate in writing, the City's approval for the issuance of a license for the applicant to the Board. The method for the communication of this approval by the City shall be determined based on the most current mechanism indicated as acceptable by the Board field office supervisor

responsible for the county.

SECTION. 1-75. Public notice.

(a) Upon receipt of an application, together with the results of the investigation and recommendations made thereon, the City Clerk shall cause notice to be published one time in the Journal Record stating that the application will be considered at the next regular meeting of the City, which notice must be published as aforesaid at least six days in advance of the next regular meeting of the City, and further stating the time and place that same is to be considered and that at such time and place all interested Persons may appear at said meeting and be heard for or against the application. Such publication shall be at the applicant's expense.

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

SECTION. 1-76. Consideration of application.

In rendering a decision on each application for license under this article, the City shall consider, among others, the following factors:

- (1) The effects upon residents, real property owners and businesses within 500 feet of the property for which a license is sought.
- (2) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.
- (3) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.
- (4) The compliance by applicant, each partner, member, officer, member of the board of directors, landlord and manager with the laws of the state and ordinances for the City.
- (5) The recommendation of the City Alcohol License Review Committee. Any recommendation factor must be grounded in the protection of the public's health, safety, and welfare.

SECTION. 1-77. 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 License of any kind or class, the sum of \$150.00, plus the costs of publication of the notice referenced in Section 1-75, 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. The City shall retain the filing fee to cover the expenses of processing and investigating said application, whether or not said application results in approval or denial, provided, however, that the filing fee for a special events license applications shall be \$75.00.

SECTION. 1-78. City Alcohol License Fees.

(a) Each Person, Association or Corporation licensed by the Board and the City, shall pay to the City, for the privilege of engaging in a business associated with the License, prior to entering into the business allowed by said License, an annual privilege business license fee and further license fees as established below:

(1) *Beer Wholesale License.* Each Person, Association or Corporation licensed as a beer wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-4 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state beer license by the state. In addition, each licensee will remit to the City Clerk, on forms provided by such City Clerk, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 5B (Code of Ala. 1975, § 28-3-190 et seq.). Wholesale beer dealers and distributors will not sell to any retail outlet within the City that does not have a current City license.

(2) *Wine Wholesaler License.* Each Person, Association or Corporation licensed by the Board as a wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state wine license by the state. In addition, each licensee will remit to the City Clerk, 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 (Code of Ala. 1975, §

28-7-1 et seq.). Wholesale wine dealers will not sell to any retail outlet within the City that is not properly licensed by the City.

(3) *Beer and Wine Wholesale License.* Each Person, Association or Corporation licensed as a beer and wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state wine and beer license by the state. In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, title 28, ch. 3, art. 58 (Code of Ala. 1975, § 28-3-190 et seq.). In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act. Wholesale beer and wine dealers will not sell to any retail outlet that is not properly licensed by the City.

(4) *Warehouse License.* Each Person, Association or Corporation licensed by the Board to receive, store or warehouse alcoholic beverages within the City for transshipment inside and outside the state shall pay to the City an annual license fee of \$500.00.

(5) *Club Retail Liquor License.* Each Person, Association or Corporation licensed by the Board to operate a Club, Class I or II, under the Alcoholic Beverage Licensing Code (Code of Ala. 1975 § 28-3A-1 et seq.) shall pay to the City an annual license fee of \$500.00 if a Class I Club, and \$1000.00 for a Class II Club. In addition, to said stated license fee, each Person, Association or Corporation shall pay to the City on or before the 15th days of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of 7 percent of gross receipts of such business derived from the sale of all Alcoholic Beverages, except beer and table wine, received during such immediate next preceding calendar month.

(6) *Lounge Retail Liquor License, Class I.* Each Person, Association or Corporation licensed by the Board to operate a Retail Liquor Lounge, Class I, under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of \$3,000.00. In addition to said stated license fee, each Person, Association or Corporation shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate calendar

month, for the privilege of having engaged in such business, an additional license tax of 7 percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(7) *Lounge Retail Liquor License, Class II (for off-premises consumption)*. Each Person, Association or Corporation licensed by the Board to operate a Retail Liquor Lounge, Class II under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 2S-3A-1 et seq.) shall pay to the City an annual license fee of \$500.00. In addition to said stated license fee, each Person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of 7 percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(8) *Restaurant Retail Liquor License*. Each Person, Association or Corporation licensed by the Board to sell Liquor in connection with the operation of a restaurant under the Alcoholic Beverage Licensing Code (Code of Ala. 1975: § 2S-3A-1 et seq.) shall pay to the City an annual privilege license fee of \$1,000.00 for a Restaurant, Class I and \$500.00 for a Restaurant Class II. In addition to the stated license fee, each such Person, Association or Corporation shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 7 percent of the monthly gross receipts of such business derived from the sale and/or including.

(9) *Retail Table Wine License (off-premises consumption)*. Each Person, Association or Corporation licensed by the Board to sell table wine for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 2S-3A-1 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state wine license by the state.

(10) *Retail Table Wine License (on-premises and off-premises consumption)*. Each Person, Association or Corporation licensed by the Board to sell table wine at retail for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 2S-3A-1 et seq.) shall pay to the City an annual license fee of 50

percent of the amount charged for state wine license by the state, unless such Person, Association or Corporation shall have paid for an on-premises liquor license.

(11) *Retail Beer (on-premises and off-premises consumption).* Each Person, Association or Corporation licensed by the Board to sell beer for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state beer license by the state.

(12) *Retail Beer (off-premises consumption).* Each Person, Association or Corporation licensed by the Board to sell beer for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A.-1 et seq.) shall pay to the City an annual license fee of 50 percent of the amount charged for state beer license by the state.

(13) *Special Retail Liquor License (on-premises consumption).* Each Person, Association, Corporation who has obtained a special retail liquor license from the Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City a license fee of \$250.00 when the period of use is 30 days or less. Such Person, Association or Corporation shall pay to the City a license fee of \$350.00 when the period of use is more than 30 days. In addition to said stated license fee, (1) each such Person, Association or Corporation shall pay to the City 50 percent of the amount charged for state wine license by the state. In addition to the stated license fee, (2) each such Person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 7 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(14) *Special Events Retail License for on-premises consumption.* Each Person, Association or Corporation who has been recommended by the City and obtained a special events retail liquor license from the Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City a license fee of \$200.00. No such license shall be issued for a period in excess of seven days. Such alcoholic

beverages as are authorized by the state alcoholic beverage control board may be sold. All applications for special event licenses shall be filed with the City Clerk at least 25 days in advance of the event for which a license is sought. In addition to the stated license fee, each such Person, Association or Corporation shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of 7 percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month shall apply to the applicant for a special event retail liquor license. Each item listed below.

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

(15) *Manufacturer License.* Each Person, Association or Corporation who has obtained a manufacturer license from the Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of \$350.00.

(16) *Importer License.* Each Person, Association or Corporation who has obtained an importer license from the Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of \$350.00.

(17) *Wholesale Liquor License.* Each Person, Association or Corporation who has obtained a wholesale liquor license from the Board under Code of Ala. 1975, § 28-3A-1 et seq. shall pay to the City an annual license fee of \$750.00.

(b) The term "gross receipts," as used in this SECTION, shall not

include any so-called "additional license tax" levied by the City under the provisions of this SECTION that are based solely on gross sales and that are directly passed on by the licensee/seller to the consumer/purchaser.

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

(d) If reports are not filed within the time herein provided and the taxes not paid on the dates herein provided for, such Person, Association or Corporation shall pay to the City the full amount of tax together with interest at the rate of three percent per month, or fraction thereof, from the date the payment of such tax became delinquent; a penalty of 7 percent of the amount of the tax; and a citation fee of \$150.00; for which interest, penalty, and citation fee must be paid by such Person.

SECTION. 1-79. Reports of business done and tax due.

The Person, Association or Corporation liable for any license tax or other tax imposed by this Ordinance shall file with the City Clerk or duly authorized representative, on or before the final date on which the tax may be paid without a penalty, such report in such form as the City Clerk or duly authorized representative, may prescribe, evidencing the amount of business done and the amount of license tax or other tax due thereon, together with full payment for any tax liability. Any failure to comply with this SECTION shall be declared unlawful and be punishable for such as outlined in this ordinance.

SECTION. 1-80. Alabama Responsible Vendor Act.

(a) Each business requesting to sell Alcoholic Beverages within the

City must obtain business certification through the Alabama Responsible Vendor Program within 60 days of license approval by the Board. (b) Upon a business becoming decertified from the Alabama Responsible Vendor Program, the City privilege license shall be suspended or revoked for a time no more than one year.

State law references: Alabama Responsible Vendor Act, Code of Ala. 1975, § 28-10-1 et seq.

SECTIONs. 1-81 through 1-100. Reserved

DIVISION 3. EFFECTIVE DATE

SECTION 1- 101. Effective Date

This Ordinance shall become effective upon its passage and publication as provided by law.

SECTION 1- 102. Ordinance Severability

If any provision of this Ordinance, or the application thereof to any Person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this Ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

SECTION 1-103 Penalties

Violations of this ordinance by any person or licensee may constitute a criminal offense and/or an administrative violation.

(a) Administrative violations of this ordinance are enforceable by the Alcohol License Review Committee, and/or authorized representatives. Each offense cited will be considered a separate offense and each day of a continued offense shall be considered a new and separate offense. Administrative violations will result in the opportunity, as set forth below, for the Licensee to have a hearing before the City, which will make the final determination if the violation(s) did or did not occur. Administrative violations that did occur will result in a fine of not more than two thousand dollars (\$2,000.00) for the first offense, a fine of not more than four thousand dollars (\$4,000.00) and/or suspension of the License for a second offense, and a fine of not more

than six thousand dollars (\$6,000.00) for the third offense levied upon the Licensee and/or suspension and/or revocation of the License.

(b) Criminal offenses of this ordinance may be enforced by any City police officer or the City alcohol beverage control agent. Criminal offenses of this ordinance will be referred for trial in the Hamilton Municipal Court. Upon final conviction of any criminal offense under this ordinance, the violator shall be fined no more than \$500 and/or ordered to serve no more than thirty (30) days in a correctional facility.

(c) The Chief of Police, or his designated representative, and/or the Alcohol License Review Committee shall have the authority to immediately suspend a License where a determination has been made by either the Chief of Police or the Committee, or both, that there exists an immediate or imminent concern for the public's health, safety and/or welfare should the Licensee be allowed to continue operation of the Licensed Premises. The Emergency Suspension shall not exceed seventy-two 72 hours without notice to the Licensee that the suspension is to remain in effect until the Licensee requests a hearing before the City regarding the Emergency Suspension.

(d) All records of administrative violation and/or criminal offense by a Licensee or any person(s) shall be made available to the Alabama Alcohol Beverage Control.

(e) All decisions by the Alcohol License Review Committee (the "Committee"), where so delegated by the City, may be appealed to the City. Such appeal must be filed in writing with the City Clerk within ten (10) days of the notice of the Committee's decision and must specify the reasons for the appeal. The City shall hold a public hearing on the appeal at the City's next regularly scheduled meeting, which is at least 14 days, and no more than thirty (30) days, after the appeal is received by the City Clerk. The appellant shall have the right to address the City and present any relevant evidence and testimony at said hearing. The decision of the City, after said hearing, shall be final.

ADOPTED at a lawful meeting of the City Council of the City of Hamilton, Alabama on this 17th day of September, 2012.

Mayor

Attest:

City Clerk