

ORDINANCE NO. 2004-32

AN ORDINANCE TO AMEND CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, RELATING TO ALCOHOLIC BEVERAGES.

BE IT ORDAINED by the City Council of Phenix City, Alabama, that Chapter 3, of the Code of Ordinances is hereby amended in its entirety as per attached Exhibit "A".

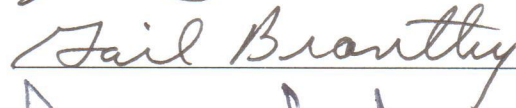
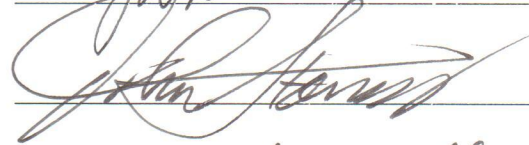
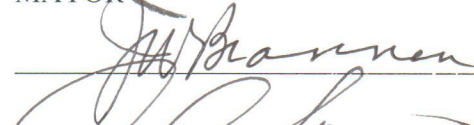
All ordinances in conflict herewith are hereby repealed.

If any part of the ordinance is declared unconstitutional, it should not automatically void the remaining sections.

PASSED, APPROVED and ADOPTED this the 21st day of Sept., 2004.



MAYOR



MEMBERS OF THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA

ATTEST:



CITY CLERK

EXHIBIT

“A”

Chapter 3

ALCOHOLIC BEVERAGES*

***State law reference**—Alcoholic beverages, Code of Ala. 1975, § 28-1-1 et seq.

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- Sec. 3-44. Same--Revocation.
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ARTICLE I. IN GENERAL**Sec. 3-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

Board. The Alcoholic Beverage Control Board of the State of Alabama.

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

Club. 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, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

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.

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

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

Liquor store. A liquor store operated by the board, where alcoholic beverages other than beer are authorized to be sold in unopened containers.

Manufacturer. Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of alcoholic beverages, liquor, beer or wine in this state or for sale or distribution in this state or to the board or to a licensee of the board.

Minor. Any person under 21 years of age, except a person 19 years of age or older prior to October 1, 1985, is not a minor; provided, however, in the event Code of Ala. 1975, § 28-1-5, shall be repealed or otherwise shall be no longer in effect, thereafter the provisions of Code of Ala. 1975, § 26-1-1, shall govern.

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

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

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.

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

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

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

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

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

(Code 1962, § 3-15; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-15, 11-19-2002; Ord. No. 2003-18, § 3-15, 7-15-2003)

Sec. 3-2. Violation; penalty.

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be punished as provided in Section 1-8. In addition, after a person is convicted under this section, the city council may recommend to the Alabama Beverage Control Board that the violator's license be revoked.

(Code 1962, §§ 3-40, 3-51; Ord. No. 1980-18, § 8, 8-19-1980; Ord. No. 1986-12, § 13, 10-7-1986; Ord. No. 98-33, §§ 3-40, 3-51, 9-2-1998; Ord. No. 2002-23, §§ 3-40, 3-51, 11-19-2002; Ord. No. 2003-18, §§ 3-40, 3-51, 7-15-2003)

Sec. 3-3. State law adopted; chapter construed.

(a) All of the provisions of the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) relating to the issuance of licenses or permits by municipalities are hereby adopted the same as if they had been set out herein in full.

(b) All the provisions of Alabama Act 2003-208 are hereby adopted the same as if they had been set out herein full.

(c) Nothing contained in this chapter shall authorize the possession, giving away, selling or having in possession any liquors, alcoholic beverages, or other spirituous or vinous liquors which have not been purchased from the state liquor store as authorized under the "Alabama Beverage Control Act" and permitted to be possessed and sold as provided therein.

(d) Nothing contained in this chapter shall authorize the possession and sale of liquor which has been imported from or brought from foreign states into the State of Alabama, except as provided under the provisions of the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.).

(Code 1962, § 3-1; Ord. of 3-25-1937, §§ 3, 9, 10; Ord. No. 1986-12, § 2, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-1, 11-19-2002; Ord. No. 2003-18, § 3-1, 7-15-2003)

Sec. 3-4. Zones in which liquor stores permitted.

The zones in which liquor stores are permitted are governed by the zoning ordinance of the city of Phenix City.

(Code 1962, § 3-7; Ord. of 6-8-1937, §§ 1--3; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-7, 11-19-2002; Ord. No. 2003-18, § 3-7, 7-15-2003)

Sec. 3-5. Possession of non-tax paid alcoholic beverages.

It shall be unlawful for any person to possess any alcoholic beverage for which the tax required by federal, state or city law has not been paid.

(Code 1962, § 3-8; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-8, 11-19-2002; Ord. No. 2003-18, § 3-8, 7-15-2003)

Sec. 3-6. Drinking on streets prohibited.

It shall be unlawful for any person to drink any alcoholic beverage upon the streets of the city.

(Code, 1926, § 203; Code 1962, § 3-9; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-9, 11-19-2002; Ord. No. 2003-18, § 3-9, 7-15-2003)

Secs. 3-7—3-40. Reserved.

ARTICLE II. LICENSE

Sec. 3-41. License--Required.

It shall be unlawful for any person to sell, at retail or wholesale, any beer or liquor, without having procured a license from the city.

(Code 1962, § 3-2; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-2, 11-19-2002; Ord. No. 2003-18, § 3-2, 7-15-2003)

Sec. 3-42. Same--Application.

All applications for the sale at retail or wholesale of beer and liquor shall be in such form as may be prescribed by the state board of control and shall contain such information as required by said board of control before the approval shall be had by the city council

(Code 1962, § 3-3; Ord. of 3-25-1937, § 6; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-3, 11-19-2002; Ord. No. 2003-18, § 3-3, 7-15-2003)

Sec. 3-43. Same--Issuance of certificate.

The finance director is hereby authorized and directed to issue a certificate to each and every applicant for a liquor or beer license whose application has been approved by the city council, certifying that said applicant has presented his application to the city council and had the same approved to said council.

(Code 1962, § 3-4; Ord. of 3-25-1937, § 5; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-4, 11-19-2002; Ord. No. 2003-18, § 3-4, 7-15-2003)

Sec. 3-44. Same--Revocation.

The license issued under the provisions of this article to any wholesale or retail dealer as herein set out may be revoked, and no refunds of said license shall be made.

(Code 1962, § 3-5; Ord. of 3-25-1937, § 4; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-5, 11-19-2002; Ord. No. 2003-18, § 3-5, 7-15-2003)

Sec. 3-45. Same--To be in addition to other licenses.

The license required by this article for each retail or wholesale dealer shall be in addition to all other licenses levied by law.

(Code 1962, § 3-6; Ord. of 3-25-1937, § 7; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-6, 11-19-2002; Ord. No. 2003-18, § 3-6, 7-15-2003)

Secs. 3-46—3-80. Reserved.

ARTICLE III. RETAIL SALES*

***State law reference**—Local approval of retail liquor license applications, Code of Ala. 1975, § 28-3A-23.

DIVISION 1. GENERALLY

Sec. 3-81. Scope of regulations.

The provisions of this article shall apply to all wines, whiskey and other distilled alcoholic spirits, but shall not apply to malt or brewed beverages.

(Code 1962, § 3-33; Ord. No. 1980-18, § 2, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-33, 11-19-2002; Ord. No. 2003-18, § 3-33, 7-15-2003)

Sec. 3-82. Hours of business for alcoholic beverage licensees; sale of alcoholic beverages to minors; etc.

- (a) Monday through Saturday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 6:00 a.m. Eastern Time, with the exception that on New Year's Day licensees shall be allowed to serve said alcoholic beverages and to permit persons to drink or consume said alcoholic beverages until 4:00 a.m. Eastern Time.
- (b) Sunday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 1:00 p.m. Eastern Time. On premise sales and distribution of alcoholic beverages are permitted in any café, lunchroom, restaurant, and hotel dining room after 1:00 p.m. Eastern Time. Off premise sales and distribution of alcoholic beverages are permitted after 1:00 p.m. Eastern Time. On premise sales are not allowed by any licensee not defined under Division II Section 3-101 of this chapter.
- (c) A conviction for the violation of this section by the licensee of a licensed alcoholic beverage establishment or an employee of such licensee while working at such licensed establishment shall constitute an automatic revocation of the license to sell alcoholic beverages at the location where the violation occurred.

(Code 1962, § 3-21; Ord. No. 1987-31, §§ 1--4, 11-3-1987; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-21, 11-19-2002; Ord. No. 2003-18, § 3-21, 7-15-2003)

State law reference—Hours of sale, Code of Ala. 1975, § 28-3A-25(a)(20), (a)(21).

Secs. 3-83—3-100. Reserved.

DIVISION 2. RESTAURANT-LOUNGES, HOTEL-LOUNGES, MOTEL LOUNGES, AND PRIVATE CLUBS*

***State law reference**—Local approval of restaurant retail liquor licenses, Code of Ala. 1975, § 28-3A-13; local approval of lounge retail liquor license, Code of Ala. 1975, § 28-3A-11.

Sec. 3-101. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Restaurant- lounge means any place or premise in which food, refreshments and liquor are offered for sale 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 following additional requirements:

- a. A dining space of at least 1,000 square feet on one floor in one room, said dining room to be equipped with tables and chairs accommodating at least 75 persons at one time.
- b. 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 room are prepared.
- c. At least one meal per day shall be served at least six days a week, with the exception of holidays, vacations and periods for redecorating.
- d. Such place shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on-premise license.
- e. 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 business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute more than 50 percent of the gross receipts of the business. The owner or owners of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wines, or other alcoholic beverages. In addition, the owner or owners are required to maintain all invoices for the purchase of food and liquor and present them to the finance director of the city for inspection on a semiannual basis.

Hotel-lounge or *motel-lounge* means an establishment, where in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located, adequately furnished, at least 30 separate sleeping rooms with adequate facilities therein under one continuous roof so comfortably disposed that persons usually apply for and receive overnight accommodations therein in the course of usual or regular travel or as a residence, with a dining room that is operated regularly and constantly frequented by customers each day.

(Code 1962, § 3-31; Ord. No. 1980-18, § 1, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-31, 11-19-2002; Ord. No. 2003-18, § 3-31, 7-15-2003)

Sec. 3-102. License generally.

No person shall be granted a license unless such person is properly licensed to do business by the city if such license is required, and conforms to all the regulations herein provided and all regulations promulgated by the Alcoholic Beverage Control Board of the State of Alabama, and unless such person pays all the license taxes levied by the city. Before granting approval for the issuance of any license, the city council shall satisfy itself that the applicant is a reputable individual. The approval or grant of a license shall be within the discretion of the city council, and no appeal or dissent may be taken there from.

(Code 1962, § 3-34; Ord. No. 1980-18, § 3, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-34, 11-19-2002; Ord. No. 2003-18, § 3-34, 7-15-2003)

Sec. 3-103. Application for license.

The application of any person who operated a hotel- or motel-lounge, a restaurant-lounge, or who operated a private club for the license described in Section 3-102 shall be made upon such blanks as are prepared or approved by the city council. Every private club applicant shall also file with or as a part of its application, a true and correct list of all of its members, officers and directors, a certificate of incorporation or documentation relating to its form of organization, and such other information as the city council shall require. All such applications shall be in writing and shall be properly verified by oath of the applicant or its agents. Every private club licensed by the City of Phenix City, Alabama, shall also file with the finance director, on an annual basis, a true and correct list of all its members, officers and directors and a statement of total dues collected from said members, all of the above required information shall be in writing and shall be properly verified by oath. If a licensed private club should have, at any time, less than at least 150 paid-up members, the city council may recommend to the Alcoholic Beverage Control Board that the license be revoked.

(Code 1962, § 3-35; Ord. No. 1980-18, § 4, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-35, 11-19-2002; Ord. No. 2003-18, § 3-35, 7-15-2003)

Sec. 3-104. Purchase of alcoholic beverages from state liquor store required.

No person shall sell any whiskey or other distilled alcoholic beverages, except such as are purchased at a State of Alabama liquor store, and all other such beverages are hereby declared to be contraband.

(Code 1962, § 3-136; Ord. No. 1980-18, § 5, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-36, 11-19-2002; Ord. No. 2003-18, § 3-36, 7-15-2003)

Sec. 3-105. Sale.

All beverages sold under the provisions of this division shall be sold on the premises.

(Code 1962, § 3-37; Ord. No. 1980-18, § 6, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-37, 11-19-2002; Ord. No. 2003-18, § 3-37, 7-15-2003)

Sec. 3-106. Records and reports.

Each person licensed under the provisions of this division shall keep accurate records of all purchases made, and shall file a statement each month with the finance director of the

City of Phenix City, Alabama, at the time of making its monthly license payment, showing the amount of purchases from the Alabama State liquor store. In addition thereto, a semiannual report, under oath, shall be filed with the finance director in January and July of each year, showing the purchases of the entire year, next proceeding.

(Code 1962, § 3-38; Ord. No. 1980-18, § 7, 8-19-1980; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-38, 11-19-2002; Ord. No. 2003-18, § 3-38, 7-15-2003)

Sec. 3-107. License for sale of wine for on-premises consumption allowed where persons qualify for an on-premises beer license.

(a) *License; application, issuance and renewal.* Subject to the provisions of the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 29-3A-1 et seq.), any licensee holding a valid on-premises beer license may file an application for an on-premises wine license, and the city is authorized and empowered to issue an on-premises wine license, and to renew the licenses, to reputable and responsible persons.

(b) *License fee.* Each person issued a license pursuant to this section shall pay an annual license fee of \$75.00.

(c) *Requirements for issuance.* Each person applying for an on-premises wine license shall file a written application with the finance director in such form as is required for an on-premise beer license. Thereafter, and upon the city council being satisfied as to the truth of the statements in the application and that the applicant is of good repute, the council may issue the license.

(Code 1962, § 3-39; Ord. No. 1984-18, 6-19-1984; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-39, 11-19-2002; Ord. No. 2003-18, § 3-39, 7-15-2003)

State law reference—Local license fee authorized, Code of Ala. 1975, § 28-3A-21(c).

Secs. 3-108—3-130. Reserved.

DIVISION 3. RETAIL (PACKAGE) SALES

Sec. 3-131. Definitions.

Any person who is qualified pursuant to the rules and regulations of the Alcoholic Beverage and Control Board of the State of Alabama to engage in the retail sale of any alcoholic beverages to the consumer for consumption by the consumer off the premises.

(Code 1962, § 3-41; Ord. No. 1980-18, § 1, 8-19-1980; Ord. No. 1986-12, § 1, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-41, 11-19-2002; Ord. No. 2003-18, § 3-41, 7-15-2003)

Sec. 3-132. Scope of regulations.

The provisions of this division apply to the retail sale of liquor by a privately owned package store, and do not apply to malt or brewed beverages and those licenses and ordinances regulating the sale of malt or brewed beverages shall remain in full force and effect.

(Code 1962, § 3-42; Ord. No. 1986-12, § 6, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-43, 11-19-2002; Ord. No. 2003-18, § 3-43, 7-15-2003)

Sec. 3-133. Sale for consumption off premises.

All beverages sold under the provisions of this division shall be sold for consumption by the consumer off the premises.

(Code 1962, § 3-43; Ord. No. 1986-12, § 10, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-43, 11-19-2002; Ord. No. 2003-18, § 3-43, 7-15-2003)

Sec. 3-134. Regulation of sale of liquor.

No person shall be granted a license unless such person is properly licensed to do business by the city if such license is required, and conforms to all the regulations herein provided and all regulations promulgated by the Alcoholic Beverage Control Board of the State of Alabama, and unless such person pays all the license taxes levied by the city. Before granting approval for the issuance of any license, the city council shall satisfy itself that the applicant is a reputable individual. The approval or grant of a license shall be within the discretion of the city council, and no appeal or dissent may be taken there from.

(Code 1962, § 3-44; Ord. No. 1986-12, § 7, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-44, 11-19-2002; Ord. No. 2003-18, § 3-44, 7-15-2003)

Sec. 3-135. Application for license.

The application shall be made upon such blanks as are prepared or approved by the city council. All such applications shall be in writing and shall be properly verified by oath of the applicant or its agents.

(Code 1962, § 3-45; Ord. No. 1986-12, § 8, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-45, 11-19-2002; Ord. No. 2003-18, § 3-45, 7-15-2003)

Sec 3-136. Zoning

The districts in which the retail sale of alcoholic beverages for consumption off the premises is regulated by the Zoning Ordinance of the City of Phenix City.

(Code 1962, § 3-46; Ord. No. 1986-12, § 3, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-46, 11-19-2002; Ord. No. 2003-18, § 3-46, 7-15-2003)

Sec. 3-137. State operated retail stores excepted.

Nothing in this division shall be construed as regulating state owned retail and wholesale alcoholic beverage sales.

(Code 1962, § 3-47; Ord. No. 1986-12, § 4, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-47, 11-19-2002; Ord. No. 2003-18, § 3-47, 7-15-2003)

Sec. 3-138. Purchase of alcoholic beverages from state liquor store required.

No person shall sell any wines, whiskey or other distilled alcoholic beverages, except such as are purchased at a State of Alabama liquor store, and all other such beverages are hereby declared to be contraband.

(Code 1962, § 3-148; Ord. No. 1986-12, § 9, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-48, 11-19-2002; Ord. No. 2003-18, § 3-48, 7-15-2003)

Sec. 3-139. Records and reports.

Each person licensed under the provisions of this division shall keep accurate records of all purchases made, and shall file a statement each month with the finance director at the time of making its monthly license payment, showing the amount of purchases from the Alabama State liquor store. In addition thereto, a semiannual report, under oath, shall be filed with the finance director in January and July of each year, showing the purchases of the entire year, next proceeding.

(Code 1962, § 3-49; Ord. No. 1986-12, § 11, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-49, 11-19-2002; Ord. No. 2003-18, § 3-49, 7-15-2003)

Sec. 3-140. Fees and taxes.

Each person licensed under the provisions of this division shall pay the same license fee and taxes as is required from persons licensed to operate a private club, hotel-motel lounge, or restaurant lounge, except persons whose establishment is located within the police jurisdiction shall pay one-half the amount of license fees and taxes charged to those establishments within the city limits of the city.

(Code 1962, § 3-50; Ord. No. 1986-12, § 12, 10-7-1986; Ord. No. 98-33, § 3-54, 9-2-1998; Ord. No. 2002-23, § 3-50, 11-19-2002; Ord. No. 2003-18, § 3-50, 7-15-2003)

State law reference—License taxes in police jurisdiction, Code of Ala. 1975, § 11-51-91.

ORDINANCE NO. 2007-40

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY PHENIX CITY, ALABAMA, CHAPTER 13 – LICENSES AND PERMITS, DIVISION 2. LICENSE TAX ON SALE OF ALCOHOLIC BEVERAGES, SECTION 13-79.9. TAX ON LIQUOR OR WINE PURCHASED FROM ABC STORE.

BE IT ORDAINED BY the City Council of the City of Phenix City, Alabama that the Code of Ordinances of the City of Phenix City, Alabama, Chapter 13 – License and Permits; Division 2. License Tax on Sale of Alcoholic Beverages, Section 13-79.9. Tax on Liquor or Wine Purchased from ABC Store be amended as follows:

Sec. 13-79.9. Tax on liquor or wine purchased from ABC Store.

- (a) Each distributor or seller which has purchased a license from the city shall, upon purchasing liquor or wine from an ABC store (Alabama Beverage Control Board store), bring a copy of each invoice to the office of the finance director of the city by the 20th of each month for any purchase of liquor or wine that has been made during the prior calendar month. There is hereby levied a tax on each bottle or container of liquor or wine purchased by a seller or distributor from an ABC store in the amount of 10 percent (10%) of the wholesale purchase price charged at the ABC store. Said tax must be paid at the time each copy of each invoice is brought to the office of the finance director of the city.
- (b) If a distributor or seller does not bring a copy of each invoice to the office of the finance director by the 20th of each month in which any purchase of liquor or wine has been made during the prior calendar month, such distributor or seller shall be assessed a penalty in the amount of 15 percent of the amount which would otherwise be due. This addition to the amount of said tax shall not operate as an extension of time in which the tax must be paid, nor shall it affect or lessen the criminal liability.
- (c) Said ordinance is to take effect beginning January 1, 2008.

All ordinances or parts of ordinances in conflict herewith are hereby repealed by this ordinance.

PASSED, APPROVED and ADOPTED this 20th day of November, 2007.



MAYOR



MEMBER OF THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA



MEMBER OF THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA



MEMBER OF THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA

ATTEST:



CITY CLERK

Sign and
approve
1/15/08

ORDINANCE NO. 2008-23

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, CHAPTER 3 – ALCOHOLIC BEVERAGES, ARTICLE II – LICENSE, SECTION 3-42 – SAME—APPLICATION.

BE IT ORDAINED BY the City Council of the City of Phenix City, Alabama that the Code of Ordinances of the City of Phenix City, Alabama, Chapter 3 – Alcoholic Beverages, Article II – License, Section 3-42 – Same – Application, be amended as follows:

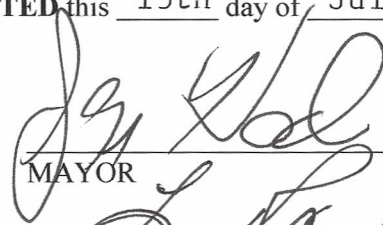
Sec. 3-42. Same - - Application.

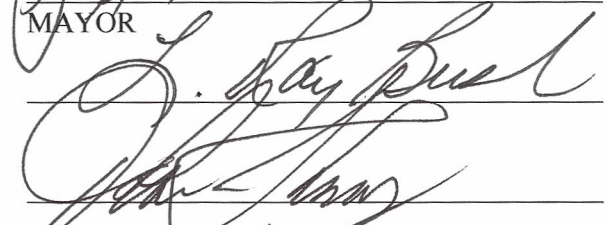
All applications for the sale at retail or wholesale of beer and liquor shall be in such form as may be prescribed by the state board of control and shall contain such information as required by said board of control before the approval shall be had by the city council. Applications must also include applicants criminal record obtained through the Alabama Criminal Justice Information Center.

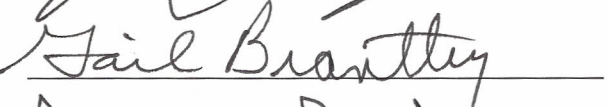
All Ordinances in conflict herewith are hereby repealed.

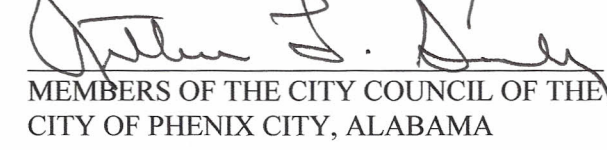
If any part of the ordinance is declared unconstitutional, it should not automatically void the remaining sections.

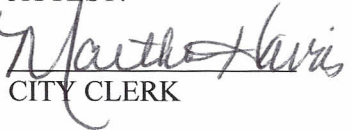
PASSED, APPROVED AND ADOPTED this 15th day of July, 2008.


MAYOR






MEMBERS OF THE CITY COUNCIL OF THE
CITY OF PHENIX CITY, ALABAMA

ATTEST:

CITY CLERK

ORDINANCE NO. 2011-22

AN ORDINANCE TO AMEND ORDINANCE NO. 2004-32 RELATING TO ALOCHOLIC BEVERAGES, SECTION 3-81. SCOPE OF REGULATIONS, AND SECTION 3-82. HOURS OF BUSINESS FOR ALCOHOLIC BEVERAGE LICENSEES; SALE OF ALCOHOLIC BEVERAGS TO MINORS; ETC.

BE IT ORDAINED, the City of Phenix City desires to amend Ordinance No. 2004-32 Alcoholic Beverages, Section 3-81. Scope of regulations, and Section 3-82. Hours of Business for Alcoholic Sales as set forth below:

Section 3-81. Scope of regulations.

The provisions of this article shall apply to all wines, whiskey, other distilled alcoholic spirits, and malt or brewed beverages.

Section 3-82. Hours of business for alcoholic beverage licensees; sale of alcoholic beverages to minors; etc.

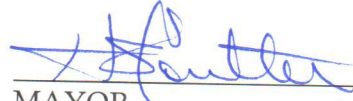
- (a) Monday thru Saturday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 6:00 a.m. Eastern Time, with the exception that on New Year's Day licensees shall be allowed to serve said alcoholic beverages and to permit person to drink or consume said alcoholic beverages until 4:00 a.m. Eastern Time.
- (b) Sunday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 1:00 p.m. Eastern Time. On premise sales and distribution of alcoholic beverages are permitted in any café, lunchroom, restaurant, and hotel dining room after 1:00 p.m. Eastern Time. Off premise sales and distribution of alcoholic beverages are permitted after 1:00 p.m. Eastern Time. On premise sales are not allowed by any licensee not defined under Division II Section 3-101 of this chapter.
- (c) It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, any alcoholic beverage to a minor.
- (d) All businesses licensed for on premise consumption of Alcoholic beverages that is devoted to serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to bars, taverns, nightclubs, lounges, and cabarets shall close when alcohol sales or on premise consumption is prohibited as per Section 3-82 (a) and (b) as set out above.
- (e) A conviction for the violation of this section by the licensee of a licensed alcoholic beverage establishment or an employee of such licensee while working as such licensed establishment shall constitute an automatic revocation of the license to sell alcoholic beverages at the location where the violation occurred.

Any ordinance or heretofore adopted by the city council of the City of Phenix City, Alabama which is in conflict with this ordinance is hereby repealed to the extent of such conflict.


If any part, section or subdivision of this ordinance shall be held unconstitutional or invalidate for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

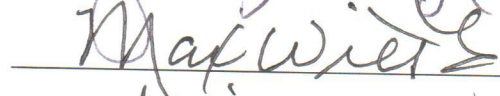
This Ordinance shall become effective on October 1, 2011.

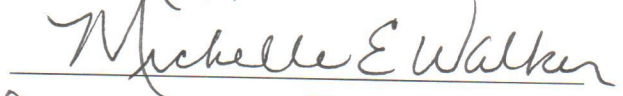
PASSED, APPROVED AND ADOPTED this 20th day of September, 2011.

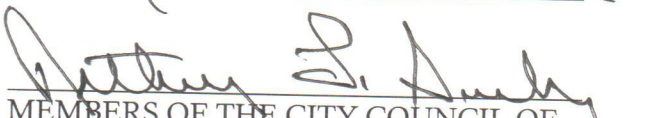


MAYOR









MEMBERS OF THE CITY COUNCIL OF
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:



CITY CLERK

ORDINANCE NO. 2012-26

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, CHAPTER 3, RELATING TO ALCOHOLIC BEVERAGES, SECTION 3.9. DRINKING ON STREETS PROHIBITED, SECTION 3.81. SCOPE OF REGULATIONS, AND SECTION 3.82. HOURS OF BUSINESS FOR ALCOHOLIC BEVERAGE LICENSEES; SALE OF ALCOHOLIC BEVERAGES TO MINORS; ETC.

BE IT ORDAINED, by the City Council of the City of Phenix City, Alabama, that The Code of Ordinances of the City of Phenix City, Alabama, Chapter 3, relating to Alcoholic Beverages, Section 3.9. Drinking on Streets Prohibited is hereby amended to read as follows:

Sec. 3.9- Drinking on Streets prohibited.

It shall be unlawful for any person to drink spirituous, vinous, or malt liquors upon the streets of the City, except for those areas designated as an Entertainment District as set out by the Zoning Ordinance of the City of Phenix City, Alabama.

BE IT FURTHER ORDAINED, that Sections 3.81. Scope of Regulations, and Section 3.82. Hours of Business for Alcoholic Beverage Licensees: Sale of Alcoholic Beverages to Minors; Etc., having been amended previously per Ordinance 2011-22 are now hereby amended to read as follows:

Section 3.81. Scope of regulations.

The provisions of this article shall apply to all wines, whiskey, other distilled alcoholic spirits, and malt or brewed beverages.

Section 3.82. Hours of business for alcoholic beverage licensees; sale of alcoholic beverages to minors; etc.

(a) Monday thru Saturday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 6:00 a.m. Eastern Time, with the exception that on New Year's Day licensees shall be allowed to serve said alcoholic beverages and to permit persons to drink or consume said alcoholic beverages until 4:00 a.m. Eastern Time. On premise sales are not allowed Monday 12:00 a.m. to 2:00 a.m. by any licensee not defined under Division II Section 3-101 of this chapter.

(b) Sunday; It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, or to drink or consume any alcoholic beverages in any café, lunchroom, restaurant, hotel dining room, or other public place between the hours of 2:00 a.m. and 1:00 p.m. Eastern Time. On premise sales and distribution of alcoholic beverages are permitted in any café, lunchroom, restaurant, and hotel dining room after 1:00 p.m. Eastern Time. Off premise sales and distribution of alcoholic beverages are permitted after 1:00 p.m. Eastern Time. On premise sales are not allowed by any licensee not defined under Division II Section 3-101 of this chapter.

1st
Reading
11/6/12
Approved
11-20-12

(c) It shall be unlawful for any person to buy, give away, sell, or serve for consumption on or off premises, any alcoholic beverage to a minor.

(d) All businesses licensed for on premise consumption of Alcoholic beverages that is devoted to serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to bars, taverns, nightclubs, lounges, and cabarets shall close when alcohol sales or on premise consumption is prohibited as per Section 3.82 (a) and (b) as set out above.

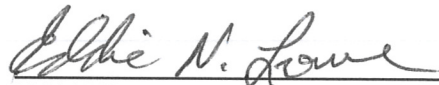
(e) A conviction for the violation of this section by the licensee of a licensed alcoholic beverage establishment or an employee of such licensee while working as such licensed establishment shall constitute an automatic revocation of the license to sell alcoholic beverages at the location where the violation occurred.

Any ordinance heretofore adopted by the City Council of the City of Phenix City, Alabama, which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

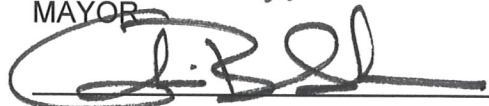
If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

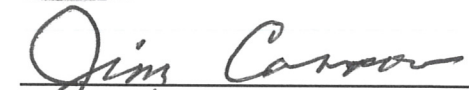
This ordinance shall become effective upon passage.

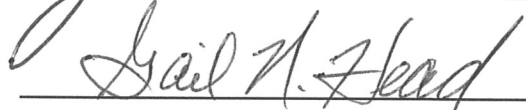
PASSED, APPROVED AND ADOPTED this 20th day of November, 2012.



MAYOR









MEMBERS OF THE CITY COUNCIL OF
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:



CITY CLERK

EXHIBIT A
DAILY SALES HOURS

Ordinance No. 2012-26

On Premises License (Restaurant per 3-101) and Off Premises License (convenience store or grocery store)

	No sales permitted												Sales permitted											
Monday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Tuesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Wednesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Thursday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Friday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Saturday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Sunday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm

On Premises License (Bar - does not meet the requirements of 3-101)

	No sales/not permitted to open												Sales permitted/can be open for business											
Monday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Tuesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Wednesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Thursday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Friday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Saturday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Sunday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm

EXHIBIT B
NEW YEAR'S DAY SALES HOURS
Ordinance No. 2012-26

New Years Day Only - if the day falls on New Years Day (Restruant)

	Sales permitted																							
	No sales																							
Monday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Tuesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Wednesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Thursday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Friday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Saturday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Sunday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm

New Years Day Only - if the day falls on New Years Day (Bar)

	Sales permitted/can be open for business																							
	No sales/not permitted to open																							
Monday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Tuesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Wednesday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Thursday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Friday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Saturday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm
Sunday	12am	1am	2am	3am	4am	5am	6am	7am	8am	9am	10am	11am	12pm	1pm	2pm	3pm	4pm	5pm	6pm	7pm	8pm	9pm	10pm	11pm

