

**ORDINANCE NO. 26-2016**

**AN ORDINANCE AUTHORIZING COMPLIANCE WITH STATE ALCOHOLIC BEVERAGE CONTROL LAWS AND AMENDING CHAPTER 3, SECTIONS 3-1, 3-2, 3-9 AND 3-14 AND AMENDING SECTION 3-13 OF THE CODE OF ORDINANCES FOR THE CITY OF MONTGOMERY, ALABAMA.**

**I. AUTHORIZING AND ADOPTING THE FOLLOWING.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, THAT THE FOLLOWING IS ADOPTED:**

**COMPLIANCE WITH STATE ALCOHOLIC BEVERAGE CONTROL LAWS.**

- (a) It shall be unlawful and a violation of this chapter for any person to do anything or commit any act or omission constituting a misdemeanor under the state alcoholic beverage control laws, which includes rules or regulations promulgated by the ABC board the violation of which have been denominated by the Code of Ala. 1975, § 28-3-20 as constituting a misdemeanor; which laws are incorporated herein by reference as if fully set forth.
- (b) Where the state alcoholic beverage control laws described in subsection (a) of this section refer to a state license, class of license, licensee, or licensed premises, the terms shall also mean and include a city license, class of license, licensee, or licensed premises.
- (c) Subject to the provisions of this chapter, where the aforementioned state alcoholic beverage control laws, which includes the Code of Ala. 1975, § 28-3A-25, establish unlawful acts or offenses relative to state licensees, their servants, agents, or employees, or to state licensed premises, in such case city licensees, their servants, agents, or employees, and city licensed premises, shall be subject to the same requirements, and failure to comply with same shall be a violation of this chapter.

**II. AMENDING THE FOLLOWING SECTIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA,** that Chapter 3, Sections 3-1, 3-2, 3-9, 3-13 and Section 3-14 of the Code of Ordinances for the City of Montgomery, Alabama be amended to read as follows:

**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 beverage control laws* mean the definitions and alcoholic beverage control laws of the state as set forth in Code of Ala. 1975, tit. 28 and the rules and regulations promulgated thereunder by the ABC board, as such laws may be amended or superseded from time to time.

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

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

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

*Liquor licensee* means a person licensed by the state alcoholic beverage control board to sell or serve liquor to consumers.

*On-premises* means and includes any part of any sports arena, stadium or amusement area, which is enclosed by walls or fences or other barriers, or any premises which have been duly licensed by the city for the sale and consumption of such alcoholic beverages.

*Restaurant* means a place used for the purpose of preparing and serving meals for the public to consume on the premises and which meets one of the following requirements:

- (1) An establishment licensed as restaurant, where any alcoholic beverages, are sold, a minimum of 60 percent of the total gross sales, computed monthly, shall result from the sale of prepared food. The establishment shall serve either one of the following: breakfast, lunch or dinner or has a kitchen with equipment capable of serving breakfast, lunch or dinner.
- (2) Within a Smart Code zoning district, an establishment licensed as a restaurant, where alcoholic beverages, are sold, in the alternative to the requirements set out above in paragraph a., may elect to maintain and operate a fully equipped kitchen on the licensed premises and shall, upon order of a customer, prepare and serve all food items shown on its menu within the restaurant building or on the building site at outside tables. A minimum of 60 percent of the total gross sales, computed monthly, from the sale of prepared food shall not be required; however, business hours of operation are limited to any range of hours between 6:00 a.m. and midnight. Businesses of this type shall not operate after midnight and may include, but are not limited to, cafes, cafeterias, eateries, sandwich shops, snack shops, tea rooms or coffee shops.

**SEC. 3-2. PENALTY, NUISANCE.**

- (a) The penalty provisions of Section 1-6 of this Code shall apply to a violation of this chapter. In addition, in the case of a violation by the retail licensee, the city council may suspend or revoke the business license issued by the city as provided in Chapter 16.
- (b) This chapter is enacted for the protection of the health, morals, comfort, and welfare of the community and any violation of this chapter is declared to be a nuisance as being injurious thereto.
- (c) It shall be unlawful for any person to maintain or aid or abet in maintaining any such nuisance.

**SEC. 3-9. - HOURS OF SALE.**

Alcoholic beverages may be legally sold during the following days and hours of sale:

- (1) For on-premises consumption only, sale and consumption shall be legal 24 hours per day Monday through Saturday, and on Sunday before the hour of 2:00 a.m. and after the hour of 9:00 a.m.
- (2) Sales for off-premises consumption in a carton or container in which alcoholic beverages are originally packaged for the market by the manufacturer or importer, shall be legal seven days per week, 24 hours per day.

**SEC. 3-13. - DRAFT OR KEG BEER.**

Draft or keg beer within the city is hereby authorized and shall be legal to be sold, delivered or donated as provided in the state alcoholic beverage control board laws.

**SEC. 3-14. - MISCELLANEOUS OFFENSES.**

It shall be unlawful:

- (1) For any retail licensee, without an additional authorizing state license, to sell draft beer in other than open containers for consumption on the premises where sold, or to permit the patron to leave the premises with draft or keg beer which was dispensed and sold on the premises;
- (2) For any retail licensee to sell, trade or barter alcoholic beverages for on-premises consumption between the hours of 2:00 a.m. and 9:00 a.m. on Sunday;
- (3) For any person purchasing alcoholic beverages for on-premises consumption to remove such beverages from the premises from which it was sold for consumption or to remove the container in which the alcoholic beverage was sold for on-premises consumption, except from the premises of those licensees in the designated entertainment districts or as otherwise provided by state alcoholic beverage control laws.
- (4) For any retail license, without an additional authorizing state license, to repackage keg or draft beer for sale.

**ADOPTED** this 7<sup>th</sup> day of June, 2016.

/S/

**BRENDA GALE BLALOCK, CITY CLERK**

**APPROVED:** 6-8-2016

/S/

**TODD STRANGE, MAYOR**

**26-2016**