

**ORDINANCE OF THE CITY OF SOUTHAVEN, MISSISSIPPI REGULATING  
ESTABLISHMENTS WHICH SELL OR ALLOW CONSUMPTION OF  
LIGHT WINE AND BEER**

**WHEREAS**, the Mayor and Board of Aldermen of the City of Southaven ("City") are empowered to make regulations to serve the general health of the municipality pursuant to Section 21-19-1 of the Mississippi Code Annotated (1972); and

**WHEREAS**, the Mayor and Board of Aldermen of the City are empowered to adopt any orders, resolutions or ordinances with respect to the care, management and control of municipal affairs and its property and finances for which no provision has been made by general law and which are not inconsistent with existing law pursuant to Section 21-17-5 of the Mississippi Code Annotated (1972); and

**WHEREAS**, municipalities are authorized to make proper rules and regulations and are empowered to prescribe hours for the opening and closing of establishments serving beer and light wines and for such other measures as will promote public health, morals and safety, pursuant to Section 67-3-65 of the Mississippi Code Annotated (1972); and

**WHEREAS**, the Mississippi Legislature has recognized the danger of unlimited consumption of light wine and beer to public health in Section 67-3-53 of the Mississippi Code Annotated (1972); and

**WHEREAS**, the Alcoholic Beverage Control Division of the Mississippi Department of Revenue also has recognized the danger of unlimited consumption of alcoholic beverages to the public health in the adoption of certain Regulations, which regulations provide for limited hours of sale and consumption of alcoholic beverages; and

**WHEREAS**, having investigated, studied and discussed the matter, the Mayor and Board of Aldermen find as follows:

1. The consumption of light wine and beer in public and private commercial establishments increases the likelihood, danger and severity of motor vehicular accidents, public disturbances and malicious mischief if consumption is allowed to continue without a time restraint;
2. Holders of on-premises permits for retail sale of

light wine and beer should be prohibited from selling or permitting the consumption on the premises of the same after 2:00 a.m. or as otherwise provided by ordinance;

3. The consumption of light wine and beer at public and private commercial establishments between the hours of 2:00 a.m. and 7:00 a.m. is a present danger to the public health, morals, safety and welfare, as stated herein;
4. The closing of all public and private commercial establishments heretofore allowing the consumption of light wine and beer after 2:00 a.m. is necessary to rationally and reasonably address the danger to the public health, morals, safety and welfare, and regulation of the hours during which light wine and beer may be consumed in public and private commercial establishments is reasonably related to the promotion of the public health, morals, safety and welfare and is not oppressive, arbitrary or discriminatory.

**WHEREAS,** the Board finds and determines that the prohibitions contained herein are the most reasonable and minimal restrictions required so as to regulate conduct which is adverse to public order, health, morality, and decency within the City when such conduct takes place at locations where the public is present or is likely to be present, or where such conduct would be readily visible to the public.

**NOW, THEREFORE, BE IT ORDAINED,** by the Mayor and Board of Aldermen of the City of Southaven, Mississippi as follows:

**Section 1. Title.** This ordinance may be referred to as the "Southaven Light Wine and Beer Ordinance."

**Section 2. Definitions.** For the purposes of this ordinance, the following definitions shall apply:

1. "Alcoholic beverage" shall mean any light wines, light spirits, and/or beer as those terms are used in Section 67-3-3 of the Mississippi Code Annotated (1972).
2. "Consume" or "consumption" shall mean any ingestion of alcoholic beverages or the possession of any alcoholic beverages in any type of drinking container or in any

bottle, can or other container upon which the seal, cork or cap has been opened.

3. "Premises" shall mean the building in which the public or private commercial establishment is located and the land, parking lot and improvements connected with or serving such establishment, which land, parking lot and improvements are under the possession or control of the proprietor of such establishment.
4. "Public or private commercial establishment" shall mean any store, restaurant, bar, lounge, club, lodge, fraternal order meeting place, or any other business, whether for profit or not for profit, and whether or not said business is a holder of a permit issued by the Alcoholic Beverage Control Division of the Department of Revenue or a beer privilege license from the City of Southaven, which charges or accepts revenue of any type in exchange for goods, sources, membership or admittance.
5. "Store" or "storage" shall mean to accept, hold, refrigerate, mix, pour or receive any alcoholic beverage or container thereof not owned or sold by the proprietor of a public or private commercial establishment as defined herein.
6. "Establishment Dealing In Alcoholic Beverages" shall mean any business or commercial establishment (whether open to the public at large or where entrance is limited by cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; night club; country club; cabaret; meeting facility utilized by any religious, social, fraternal or similar organization; business or commercial establishment where a product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that the same will be, or is intended to be mixed, combined with or drunk in connection or combination with an alcoholic beverage on the premises of said business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

**Section 3. Sale to Certain Persons.** No person, partnership, corporation, other entity, nor any agent or employee thereof, operating a public or private commercial establishment shall permit the sale to and/or consumption of alcoholic beverages on the premises of such establishment by any person visibly or noticeably intoxicated, to any insane person, to any habitual drunkard or to any person under the age of twenty-one (21) years.

**Section 4. Hours of Sale or Consumption.** No person, partnership, corporation, other entity, nor any agent or employee thereof, operating a public or private commercial establishment shall permit the sale and/or consumption of alcoholic beverages on the premises of such establishment between the hours of 2:00 a.m. and 7:00 a.m., Monday through Sunday, seven days per week.

**Section 5. Storage.** No person, partnership, corporation, other entity, or employer or agent thereof, which operates a public or private commercial establishment shall store any alcoholic beverage not owned by said person, partnership, corporation, or other entity on the days of Monday through Sunday between the hours of 2:00 a.m. and 7:00 a.m.

**Section 6. Penalties.** Any person and/or entity which shall be found to have violated this ordinance shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00), or imprisonment not exceeding ninety (90) days, or both.

**Section 7. Limitation.** Nothing in this ordinance shall be construed to authorize, legalize, protect or condone the sale, distribution, possession, storage, consumption or giving away of any alcoholic beverage which is otherwise prohibited or regulated by laws of the State of Mississippi or ordinances of the City, or which is controlled or not permitted by the owner or proprietor of any public or private commercial establishment.

**Section 8. Enforcement.** The Southaven Police Department is hereby authorized, ordered and directed to enforce this ordinance.

**Section 9. Injunctive Relief.** In addition to the procedures provided herein, Establishments Dealing In Alcoholic Beverages that are not in conformity with these requirements

shall be subject to appropriate civil action in the court of appropriate jurisdiction for abatement.

**Section 10. Severability.** In the event that any portion of this ordinance is ruled invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in full force and effect.

**Section 11. Effective Date.** Upon the date that this ordinance becomes in full force and effect, any prior ordinance of the City of Southaven is hereby repealed one month after passage of this ordinance.

Passage of this Ordinance is now official and the same shall take effect and be enforced as provided by law.

The foregoing Ordinance was discussed and voted upon in a public meeting, and whereas a motion was duly made by Alderman Flores, and seconded by Alderman Wheeler, with the following results:

Alderman Kristian Kelly	YES
Alderman Charlie Hoots	YES
Alderwoman William Jerome	YES
Alderwoman Joel Gallagher	YES
Alderman John David Wheeler	YES
Alderman Raymond Flores	YES
Alderman George Payne	YES

The foregoing Ordinance was passed, adopted and approved on the 17<sup>th</sup> day of May, 2022.

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**DARREN MUSSELWHITE, MAYOR**

**ATTEST:**

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**ANDREA MULLEN, CITY CLERK**