CITY OF ARAB, ALABAMA
Ordinance No. 2023-5

WHEREAS, the City Council of the City of Arab, Alabama has previously adopted an Arab Alcoholic Beverage Ordinance (Ordinance 2006-8 as amended); and,

WHEREAS, due to continued growth and change, it has become necessary to amend the Arab Alcoholic Beverage Ordinance for the public good and welfare; and,

WHEREAS, the Alcohol Licensee Review Committee has approved and recommended these amendments and additions.

WHEREAS, the City Council of the City of Arab hereby authorizes the changes as indicated herein, and otherwise amends other portions necessary, subject to the requirements and provisions of Ordinance No. 2006-8, as amended, and codified as Chapter 2-5 et. seq. of the Code of Ordinances of the City of Arab, Alabama, now existing as well as any amendments hereinafter adopted;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARAB, ALABAMA THAT:

SECTION ONE. Amendment. Chapter 2.5 et. seq. of the Code of Ordinances of the City of Arab, Alabama is hereby amended as follows:

Sec. 2.5-4 (b). – Location of Premises, etc. which now reads:

(b) Subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the building in which the premises are located is less than 400 feet from any building in which there is a church, or a public or private elementary, intermediate, middle or junior high, high school and child development facility. The aforesaid distance restrictions shall not apply in the following enumerated cases:

(1) Where the church or school was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.

(2) Where the city licensed premises is a grocery store as defined herein.

Is amended to read:

(b) Subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the building in which the premises are located is less than 400 feet from any building in which there is a church, or a public or private elementary, intermediate, middle or junior high, high school and child development facility. The aforesaid distance restrictions shall not apply in the following enumerated cases:

(1) Where the church or school was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.

(2) Where the city licensed premises is a grocery store as defined herein.

(3) Where the church or child development facility is in a Shopping Center (whether regular, Neighborhood or Regional- as defined by the Arab Zoning Ordinance).

(4) Where the church, school or child development facility is permitted and opens after a potential Licensee has filed his application for a License with the City.

Sec. 2.5-9 – Authorized Hours which now reads:

(a) *Off-premises consumption.* It shall be unlawful, and considered a violation of this chapter, for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve dispense for offer or reward, or to offer to serve or dispense for reward any liquor, wine, or beer for off-premises consumption between the hours of 12:00 a.m. and 7:00 a.m. on Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 12:01 a.m. on Sunday of any week and 7:00 a.m. of the following Monday.

(b) *On-premises consumption.* It shall be unlawful, and considered a violation of this chapter, for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve dispense for offer or reward, or to offer to serve or dispense for reward any liquor, wine, or beer, for on-premises consumption or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 2:00 a.m. and 7:00 a.m. on Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 2:00 a.m. on Sunday of any week and 7:00 a.m. of the following Monday.

Is amended to read:

(a) *Off-premises consumption.* It shall be unlawful, and considered a violation of this chapter, for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve dispense for offer or reward, or to offer to serve or dispense for reward any liquor, wine, or beer for off-premises consumption between the hours of 12:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday of any week, ***or between the hours of 12:00 a.m. and 9:59 a.m. on Sunday***.

(b) *On-premises consumption.* It shall be unlawful, and considered a violation of this chapter, for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve dispense for offer or reward, or to offer to serve or dispense for reward any liquor, wine, or beer, for on-premises consumption or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of ***2:00 a.m. to 9:59 a.m. on Sunday.***

Sec. 2.5-35 – Public Notice which now reads:

(1) 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 two times in a newspaper of general circulation published in the city, stating that the application will be considered at the next regular meeting of the City Council, which notice must be published as aforesaid at least six (6) days in advance of the next regular meeting of the City Council, 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.

(2) All applicants seeking consent and approval for a city 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 Council has been circulated to residents, real property owners and businesses within five hundred (500) feet of the property sought to be licensed by leaving a copy of said notice with each such resident or business or with some person over eighteen (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 Council.

Is amended to read:

(1) 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 a newspaper of general circulation published in the city, stating that the application will be considered at the next regular meeting of the City Council, which notice must be published as aforesaid at least six (6) days in advance of the next regular meeting of the City Council, 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. ***Furthermore, if at any time there shall not be a newspaper of general circulation published in the city, then in such instance the City shall post notice at City Hall and include the information on its website and social media sites which shall be sufficient notice as required herein.***

(2) All applicants seeking consent and approval for a city 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 Council has been circulated to residents, real property owners and businesses within five hundred (500) feet of the property sought to be licensed by leaving a copy of said notice with each such resident or business or with some person over eighteen (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 Council.

Sec. 2.5-39. - Additional regulations concerning the sale of lounge retail liquor license and retail liquor for off-premises consumption license, which now reads:

(a) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is less than 500 feet from another premises that has previously been authorized and is currently licensed for the sale of lounge retail liquor or retail liquor for off-premises consumption. The method of measurement used in determining any distance requirements of this section shall be the same as found in section 2.5-4 of this chapter. A state liquor store (i.e., a store operated by the state alcohol beverage control board which offers the retail sale of liquors for off-premises consumption) shall not be construed as a "facility or property for the sale of retail liquor for off-premises consumption" pursuant to this subsection.

(b) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is less than 500 feet from any building which is a church, school, or child development facility. The method of measurement and the treatment of outdoor areas used in determining any distance requirements of this section shall be the same as found in section 2.5-4 of this chapter. The aforesaid distance restrictions shall not apply where the church, school, or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.

(c) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is situated in any zoning district other than a B-2 zone. The sale of lounge retail liquor or retail liquor for off-premises consumption shall only be permitted in a B-2 zone subject to such other rules and regulations as prescribed by law and such conditional use regulations prescribed by the city's zoning ordinance.

Is amended to read:

(a) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is less than 500 feet from another premises that has previously been authorized and is currently licensed for the sale of lounge

retail liquor or retail liquor for off-premises consumption. The method of measurement used in determining any distance requirements of this section shall be the same as found in section 2.5-4 of this chapter. A state liquor store (i.e., a store operated by the state alcohol beverage control board which offers the retail sale of liquors for off-premises consumption) shall not be construed as a "facility or property for the sale of retail liquor for off-premises consumption" pursuant to this subsection.

(b) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is less than 500 feet from any building which is a church, school, or child development facility. The method of measurement and the treatment of outdoor areas used in determining any distance requirements of this section, ***as well as the exceptions thereto,*** shall be the same as found in section 2.5-4 of this chapter. The aforesaid distance restrictions shall not apply where the church, school, or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months.

(c) No facility or property shall be authorized for the sale of lounge retail liquor or retail liquor for off-premises consumption where the building in which the premises are located is situated in any zoning district other than a ***GB*** zone. The sale of lounge retail liquor or retail liquor for off-premises consumption shall only be permitted in a ***GB*** zone subject to such other rules and regulations as prescribed by law and such conditional use regulations prescribed by the city's zoning ordinance.

(1) Severability. The provisions of this Ordinance are severable so that if any provision hereof is declared unconstitutional, void, or invalid by a court of competent jurisdiction, all other provisions hereof shall not be affected by such declaration and shall remain in fill force and effect as though the unconstitutional, void or invalid provision had not been included in the Ordinance as originally adopted.

(2) Conflicts with state statutes. This Ordinance shall be deemed cumulative with and supplemental to any and all statutes of the State of Alabama regarding the subject matter hereof and to be subordinate to same and in no manner intended to supersede any such statues of the State of Alabama. Any provision hereof in conflict with any provision of any State statute shall be construed so as to be in harmony with the same where possible and otherwise to be subordinate to and superseded by the provisions of such State statute.

(3) Effective date. This Ordinance shall be effective only after publication according to law.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ARAB, ALABAMA THIS 7th DAY OF AUGUST, 2023.

Johnny Hart – Council Member Place 1
Mitch Stone – Council Member Place 2
Mark Gullion – Council Member Place 3
Mike Allen – Council Member Place 4
Alan Miller – Council Member Place 5
R.D. Joslin – Mayor
ATTEST: Tony Willis City Clerk