

STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

CITY OF WINONA

AN ORDINANCE OF THE CITY OF WINONA, MISSISSIPPI ADOPTING PROPER RULES AND REGULATIONS AS TO THE PORTATION, STORAGE, SALE, DISTRIBUTION, POSSESSION, USE, RECEIPT AND/OR MANUFACTURE OF WINE AND BEER ALCOHOLIC CONTENT OF NOT MORE THAN FOUR PERCENT WEIGHT IN THE CITY OF WINONA, MONTGOMERY COUNTY, MISSISSIPPI AND REPEALING ALL PRIOR ORDINANCES RELATING THERETO.

WHEREAS, by an election held in Montgomery County, Mississippi on the 2nd day of November, A.D., 1982, under the provisions of Miss. Code Ann., Section 67-3-7 (1972), the transportation, storage, sale, distribution, receipt, possession and/or manufacture of wine and beer of an alcoholic content not more than four percentum by weight was made lawful and permitted in the City of Winona, Montgomery County, Mississippi; and

WHEREAS, the Board of Mayor and Aldermen of the Winona, Mississippi, is authorized under the provisions of Miss. Code, Ann., Section 67-3-65 (1972), and under its general powers, to prescribe and enforce reasonable and proper rules and regulations, or fixing zones and territories, prescribing hours of opening and closing, and for such other measures as will promote public health, safety, morals and general welfare, as this Board may order to be applicable to the territory inside the municipal corporate limits of the City of Winona, Mississippi; and

WHEREAS, the Board of Mayor and Aldermen of the City of Winona, Montgomery County, Mississippi, after due investigation desires to adopt rules and regulations in connection with the sale, possession, and consumption of beer and wine of an alcoholic content not more than four per centum by weight as authorized by law so as to promote the public health, morals and safety of the citizens of the City of Winona, Mississippi.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF WINONA, MISSISSIPPI, AS FOLLOWS:

Section 1. That the matters and facts found and adjudged in the preamble to this Ordinance be, and the same are hereby adopted herein.

Section 2. That any person desiring to engage in the business of selling beer and light wine at retail in the City of Winona, Mississippi, shall:

- (a) first secure a permit from the State Tax Commission as required by Miss. Code Ann., Section 67-3-17 (1972), and pay the privilege tax imposed by Miss. Code, Ann., Section 27-71-303 (1972);
- (b) secure a privilege license to sell light wine and beer at retail from the City of Winona and pay a privilege fee to the City of Winona and pay a privilege fee to the City of Winona pursuant to Miss. Code, Ann., Section 27-71-345 (1972), in an amount equal to one-half (1/2) the fee imposed by Miss. Code, Ann., Section 27-71-303 (1972), or renew such a License by applying to the Board of Mayor and Aldermen, Upon and application in the form of a sworn statement Showing that he possesses the following qualifications:
 - (1) Applicant much be a person at least twenty-one years of age, of good and moral character, a citizen of the United States and the State of Mississippi.
 - (2) Applicant shall not have convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within two years of the date of his application of any violation of the laws of this state or the laws of the United States relating the alcoholic liquor.
 - (3) Applicant shall not have had revoked, within two years next preceding his application, any license or permit issued to him pursuant to the laws of this state, or any other state, to sell alcoholic liquor of any kind.

- (4) Applicant shall be the owner of the premises for which the permit is sought or the holder of an existing lease thereon.
- (5) Applicant shall not be residentially domiciled with a person whose permit has been revoked for cause within two years next preceding the date of the present application for a permit.
- (6) Applicant shall not employ any person whose permit has been revoked when such person owned or operated the business on the premises for which a permit is sought, or allow such person to have any financial interest in the business of the applicant, until such person is qualified to obtain a permit in his own name.
- (7) The applicant is not indebted to the State of Mississippi for any delinquent taxes.
- (8) If applicant is a partnership, all members of the partnership must be qualified to obtain a permit.
- (9) If applicant is a corporation, all officers and directors thereof, and any stockholders owning more than five percent of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all qualifications required herein for any individual permittee. However, the requirements as to residence shall not apply to officers, directors, and stockholders of such corporation, although such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises.

- (c) any misstatement or concealment of fact in an application for a license to sell light wine and beer at retail shall be grounds for revocation of such license;
- (d) City privilege licenses shall be applied for and renewed annually and shall be displayed conspicuously in the licensee's place of business and shall not be transferable;
- (e) any license issued hereunder may be revoked prior to his expiration upon a finding by the Board of Mayor and Aldermen of the City of Winona, Mississippi, that the licensee no longer meets the qualifications imposed herein for the issuance or renewal of such license.

Section 3. It shall be unlawful in the City of Winona for the owner of a permit authorizing the sale of light wine and beer at retail, to give or dispense, or permit to be consumed in or upon a licensed premises, any beer or light wine during the hours of Monday through Saturday between the hours of midnight and 7:00 o'clock A.M. or on Sunday between the hours of midnight Saturday and 7:00 o'clock A. M. on Monday, or on Christmas Day.

Section 4. It shall be unlawful in the City of Winona, Mississippi, to sell or store said alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, except for the storage and consumption in the privacy of one's own home and except in those business in areas zoned Commercial or Business, such minimum distance shall be not less than one hundred and fifty (150) feet; further, the measurements of distance set forth herein shall be made from the closest point on the lot (real property) of the church, school, kindergarten, or funeral home to the closest corner of the building wherein said alcoholic beverages are sold, with said measurement being made in a straight line. Any permittee who is in compliance with this Ordinance prior to the instant amendment shall be permitted to continue operations and said permit may be transferred provided all other terms and provisions of this Ordinance are complied with so long as sales as contemplated by the grant of a permit herein do not cease for a period of twelve (12) months or longer.

Section 5. It shall be unlawful in the City of Winona to sell light wine and beer in areas specifically zoned and so designated as R-1, R-2, R-3, and R-4 by the official zoning map and ordinance of the City of Winona, Mississippi. However, the sale light wine and beer for on premises consumption shall be permitted if the permittee holds a valid on premises retailer's permit duly issued under the Local Option Alcoholic Beverage Control Law.

Section 6. It shall be unlawful in the City of Winona, Mississippi, for the owner of a permit authorizing the sale of light wine and beer at retail to permit the opening of a container of such light wine and beer and the consumption of such wine and beer on the premises of the holder or a permit authorizing the sale of such beverage, or permitting of either to be done on such premises by the holder of such permit unless such retail establishment is a bona fide restaurant holding a permit authorizing the sale of such beverage. The word "restaurant" for the purposes of this Ordinance means a place which is regularly and in a bona fide manner used and kept open for the service of meals to guests for compensation and which has suitable seating facilities for guests and has suitable kitchen facilities connected wherewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. No place shall qualify as restaurant under the provisions of this Ordinance unless fifty (50%) of more of the revenue derived from such place shall be from the preparation, cooking and serving of meals, and not from the sale of such light wine and beer. All restaurants, as herein defined, shall have adequate seating facilities for their customers and shall under no circumstances sell beer unless the person or persons ordering the said beer are seated. All restaurants, as herein defined, shall have adequate sanitary facilities and separate restrooms for men and women.

Section 7. The sale of beer is forbidden on the outside and inside premises of all drive-in restaurants, eating establishments that have curbside service, and any drive-in or drive-through businesses or entities which do not require a purchaser to leave his vehicle to make a purchase of said beer.

Section 8. It shall be unlawful in the City of Winona, Mississippi for the owner of a permit authorizing the sale of light wine and beer at retail:

- (a) to sell, give or furnish any beer or wine to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunk or to any minor under the age of twenty-one (21) except as noted herein below;
- (b) to permit any lewd, immoral or improper entertainment, conduct or practices;
- (c) to permit loud, boisterous or disorderly conduct of any kind upon his premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community wherein such business is located;
- (d) to permit persons of ill repute, known criminals, prostitutes or minors to frequent his licensed premises, except minors accompanied by parents or guardians, or under proper supervision;
- (e) to permit or suffer gambling or the operation of games of chance upon his licensed premises;
- (f) to receive, possess or sell on his licensed premises any beverage of any kind or character containing more than four percentum (4%) of alcohol weight unless the licensee also possesses an on-premises permit under the Local Option Alcoholic Beverage Control Law.

(g) to sell, give or furnish any beer or wine to any person under the age of twenty-one (21) years, except under the following circumstances, to-wit:

- (1) A person who is under twenty-one (21) years of age shall not be deemed to unlawfully possess or furnish light wine or beer, if in the scope of his employment such person, and in compliance with the laws of the State of Mississippi.

Section 9. No business or entity licensed pursuant to this Ordinance and possessing a valid on-premises retailer's permit and where beer is sold for consumption on the premises, shall employ in any capacity in connection with the selling, dispensing, serving, packaging, transporting, stocking, or other related activities any person under the age of eighteen (18) years.

Section 10. It shall be unlawful for any person, firm, partnership, or corporation licensed by the City of Winona, Mississippi, as set forth herein, to sell light wine and beer at retail to advertise the sale of such light wine and beer by the use of any type of sign located outside the building or by the use of any type sign located within said building which is visible from the outside.

Section 11. The sorting, keeping, or displaying of said light wine and beer, or the empty carton or containers thereof, in or on the premises covered by such permit in such a manner to be visible from the highway otherwise from the outside of said premises is hereby prohibited.

Section 12. The advertising of beer and light wine by means of signs, billboards, or displays on or along a public road, highway, street, or any building is hereby prohibited.

Section 13. No alcoholic beverages shall be consumed, or possessed in an open container, in or on public parks, public playgrounds, school grounds, school buildings, public streets, public sidewalks, any municipal or publicly owned buildings, retail establishments, or any other property within the corporate limits of the City of Winona, Mississippi where such consumption or possession of alcoholic beverages would be visible to passersby; and any violation of this section shall be a misdemeanor and punished accordingly with the provisions of this Ordinance.

Section 14. No person twenty-one (21) years of age or over shall purchase for, or give directly or indirectly any alcoholic beverages to a minor under the age of twenty-one (21) years.

Section 15. It shall be unlawful for any person under the age of twenty-one (21) to purchase, consume, or have in his possession any such beer regulated pursuant to this Ordinance.

Section 16. No business or entity shall be licensed under this Ordinance where beer is only to be sold and not consumed on the premises as provided by Section 6 above, unless fifty percent (50%) of the gross sales of said business or entity is derived from the sale of food for human consumption or related products. No sale of beer will be permitted in any service station, department store, discount store, warehouse, drug store,

or convenience store, or any other type establishment unless said business or entity also stocks food for sale for human consumption or related products and meets the fifty percent (50%) gross sales provisions as stated above. In reference to convenience stores located within the City of Winona, Mississippi, the gross receipts from the sale of gasoline shall not be included in computing the ratio as set forth hereinabove. The Board of Mayor and Aldermen shall have the authority to require any licensee or applicant for a license to produce for inspection any and all business and financial records of the licensee or applicant to determine if the licensee or applicant complies with the (50%) gross sales provisions as set forth above. Refusal of the licensee or applicant to produce said records upon request by said Board shall result in an automatic revocation of any license heretofore or hereafter issued pursuant to this ordinance or in the denial of an application for license if not previously issued.

Section 17. Any violation of this ordinance shall be a misdemeanor; and any person upon conviction thereof shall be punished as follows:

(a) for persons selling beer and light wine in violation hereof the penalty shall be as follows:

(1) for the first violation, a fine of Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not more than ninety (90) days, or both:

(2) for the second violation, a fine of Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not more than ninety (90) days, or both, and the revocation of the license issued as set forth herein by the City of Winona for a period of not less than six (6) months;

(3) for the third violation, a fine of Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not more than ninety (90) days or both, and the permanent revocation of the license issued as set forth herein by the City of Winona, Mississippi.

(b) for those other than sellers, who violate this Ordinance the penalty shall be:

(1) for the first violation, a fine of not more than One Hundred Dollars (\$100.00) or imprisonment in the county jail for not more than thirty (30) days or both:

(2) for two or more violations, a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not more than thirty (30) days or both.

Section 18. This Ordinance is declared to be cumulative and supplemental to any and all acts and laws of the State of Mississippi pertaining to the governing of the sale and distribution of light wines and beer.

Section 19. If any section, paragraph, clause, or sentence of this Ordinance be declared illegal or unconstitutional or in conflict with any existing statutes by a court of competent jurisdiction, it shall not impair or affect the validity of the remainder of said Ordinance, and all other provisions, conditions and stipulations of said Ordinance shall remain in full force and effect.

Section 20. This Ordinance shall be certified by the Municipal Clerk, signed by the Mayor, and recorded in the Ordinance Book of the City of Winona according to law.

Section 21. That the Clerk of this Board be, and she is hereby, directed to cause this Ordinance to be published in The Winona Times, a newspaper published in and having a general circulation in the City of Winona, Montgomery County, Mississippi.

Section 22. This Ordinance shall be in full force and effect thirty (30) days from and after its passage as provided by law.

The above and foregoing Ordinance, having been first reduced to writing, was read and considered section by section, then as whole; the motion to adopt the foregoing Ordinance being made by Alderman Jerry Flowers, who was seconded by Alderman Charles Shelton, the vote section by section and a whole being as follows:

1. Section 1-22

Alderman Charles L. Shelton voted	Aye;
Alderman J. R. Graves voted	Aye;
Alderman Jerry Flowers voted	Absent;
Alderman Franklin Seals	Aye;
Alderman David Ware voted	Aye.

2. As a whole:

Alderman Charles L. S Shelton voted	Aye;
Alderman J. R. Graves voted	Aye;
Alderman Jerry Flowers voted	Absent;
Alderman Franklin Seals voted	Aye;
Alderman David Ware voted	Aye.

Thereupon, the Mayor declared the motion carried and said Ordinance adopted on this the 5th day of July 2006.

David Putman, Mayor

ATTEST:

Bonita Smith, City Clerk