

ORDINANCE NO. 169-09-10

AN ORDINANCE AMENDING ORDINANCE NO. 167-09-10 OF THE CITY OF GUIN, ALABAMA, REGULATING THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF GUIN, PROVIDING FOR LICENSING PROCEDURES AND ESTABLISHING PUNISHMENT FOR VIOLATIONS.

WHEREAS, Ordinance No. 167-09-10, regulating the sale and distribution of alcoholic beverages within the City of Guin, Alabama, was adopted by the Mayor and City Council on July 1, 2010, and the same became effective on July 20, 2010; and,

WHEREAS, after consideration of applicable Alabama Beverage Control Board regulations and licensing categories, the City Council finds the following amendments should be made to said Ordinance to change certain licensing fees and to more clearly delineate between certain licensing categories:

(1) Section 1-3, Restaurant, Class II, Subsection (7) (d), regarding golf courses, shall omit the words "public or" in order to correct a clerical error in the original Ordinance.

(2) Section 1-4, Subsection (b) (4), shall be amended to clarify that any establishment with a Class I or Class II Club Retail Liquor license, or a Class I Lounge Retail Liquor license shall not be located within 2500 feet of any church or school, and to further clarify that the subsection does not apply to a Class II Lounge Retail Liquor License.

(3) Section 2-9, Subsection (a) (6), shall be amended to clarify that the subsection applies to a Class I Lounge Retail Liquor License.

(4) Section 2-9, Subsection (a) (7), shall be amended to clarify that the subsection applies to a Class II Lounge Retail Liquor License ("package store" – for off-premises consumption only).

(5) Section 2-9, Subsection (a) (8), shall be amended to set the privilege license fee at One Thousand Dollars (\$1,000.00) for a Class II Restaurant retail liquor license.

(6) Section 2-9, Subsection (a) (13), shall be amended to set the privilege license fee at Five Hundred Dollars (\$500.00) for a Special retail liquor license for on-premises consumption, whether the license is for a period of under thirty (30) days or a period of over thirty (30) days.

(7) Section 2-9, Subsection (a) (14), shall be amended to set the privilege license fee at One Thousand Dollars (\$1,000.00) for a Special Events retail license for on-premises consumption.

THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Guin, Alabama, that Ordinance No. 167-09-10 of the City of Guin, which was adopted on July 1, 2010, is amended to read in its entirety, as follows:

ARTICLE I. ALCOHOLIC BEVERAGE CONTROL

Sec. 1-1. SHORT TITLE.

This article shall be known and may be cited as the “Guin Alcoholic Beverage Ordinance.”

Sec. 1-2. PURPOSE.

This article is enacted for the purposes, among others, of promoting the health and general welfare of the community, of establishing reasonable standards for the regulation and control of the licensing and sales of alcoholic beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable persons from engaging in or having any interest in alcoholic beverages. This article shall be construed as an exercise by the City of the police power of the State delegated to the City, in the regulation of traffic in alcoholic beverages within the City as provided by *Code of Alabama, 1975, as amended*.

Sec. 1-3. DEFINITIONS.

Whenever used in this article, the definitions set forth in the *Code of Ala. 1975, § 28-3-1 et seq.* are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:

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 (0.5) percent or more 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.

Bartender/server: An employee of a retail alcoholic beverage licensee who is directly involved with the opening, mixing, dispensing, serving, or final sale of alcoholic beverages to a customer of the licensed establishment.

Beer, or malt or brewed beverages: Any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented malt liquor containing one-half of one (0.5) percent or more of alcohol by volume and not in excess of thirteen and nine-tenths percent by volume, by whatever name the same may be called. Beer or malt or brewed beverages sold by the holder of a retail beer license for off-premises consumption pursuant to *Code of Alabama* Section 28-3A-17 shall only include 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 Alabama Alcoholic Beverage Control Board.

Business owner: A person or persons issued a privilege license by the City to conduct routine business.

Carton. The package or container or containers in which alcoholic beverages are originally packaged from shipment to market by the manufacturer or its designated representatives or the importer.

Church: An entire house or structure set apart primarily for use for purposes of public worship, and whose sanctuary is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure is kept for that use and not put to any other use inconsistent therewith.

City alcoholic license fee: A fee charged by the City to a person who has been granted approval by the state alcoholic beverage control board for the privilege of selling alcoholic beverage within the City limits as herein enumerated and defined.

Container: The single bottle, can, keg, bag or other receptacle, 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.

Convenience store: A small store that is engaged primarily in the quick retail sale of motor fuel and a limited quantity and variety of consumable items in their original containers for off-premises consumption. The term does not mean any of the following:

a. A large store engaged primarily in, and deriving a substantial amount of gross revenue from, the retail sale of food and dry goods for off-premises consumption, commonly known as a grocery store or department store.

b. A specialty store engaged primarily in, and deriving a substantial amount of gross revenue from, the retail sale of food and dry goods for off-premises consumption.

Distributor: Any person transporting alcoholic beverages within the City for such person's own retail use or for delivery to a retailer whether or not the same be owned by such person.

Engaged in business: A person shall be deemed engaged in business within the corporate limits if that person has a fixed place of business within the corporate limits, or if that person, pursuant to agreement of sale, expressed or implied, delivers any alcoholic beverage, beer or wine within the corporate limits, or if that person performs, within the corporate limits, any act authorized to be done only by the holder of any license issued by the Alabama Alcoholic Beverage Control Board.

Fixed place of business: Any place where any alcoholic beverage, wine or beer is kept or stored for sale or delivery.

Grocery store: A retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales and whose floor space is at least 8,000 square feet.

License: A retail alcoholic beverage license or any other license issued by the Alabama Alcoholic Beverage Control Board requiring consent and approval of the City Council.

Licensee: Any person licensed by the City Council for the privilege of engaging in a business involved in the sale of alcohol.

Liquor: Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverages, 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 (0.5) percent or more of alcohol by volume, except beer and table wine.

Manager: An employee of a retail alcoholic beverage licensee who is given the responsibility and authority by the licensee to direct the operation of the licensed establishment, either solely or in conjunction with other similarly designated employees, by directing the activities of other employees of the licensed establishment. Such direction could include, but not be limited to, such responsibilities as assignment of employee tasks, scheduling of employee hours, evaluation of employee performance, and employee hiring or discipline.

Meal: A diversified selection of food some of which is not capable 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.

Opened container: A container containing alcoholic beverages, which has been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

Package liquor sales for off-premises consumption: A package liquor store (Class II lounge-liquor license)

Person: Every natural person, association or corporation. Whenever used in a clause prescribing 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.

Person in charge: A person, whether owner, partner, officer, or employee of the alcoholic beverage licensee, who is designated by the licensee as a responsible party for the licensee in ensuring compliance with the law and regulations of the *Code of Alabama*, Alabama Alcoholic Beverage Control Board, and the ordinances of the City as they apply to the operation of a business having retail sales of alcoholic beverages.

Privilege license: A privilege license issued by the City to a person to conduct routine business.

Public place: Any place or gathering which the public generally attends or is admitted to either by invitation, common consent, or right, or by payment of an admission or other charge, and without limiting the foregoing, shall include any streets, alleys, sidewalks, public easements, or rights-of-way, parking lots designed for use by the general public, public buildings, buildings which are open to the public including but not limited to school buildings or grounds, parks and libraries, places where school related and recreational games or contests are held, any theater, auditorium, show, skating rink, dance hall or other place of amusement or any club, provided that such term shall not mean or include premises which have been duly licensed under the ordinances of the City and the laws of the State for sale or consumption of such beverages, and provided that no private gathering is included within the meaning of public place with respect to the owners or occupants of such premises or place or to any persons specifically invited therein; provided, that such term shall not mean or include premises which have been duly licensed by the City for sale thereon of such beverages.

Restaurant, class I: A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a diversified selection of food, refreshments and alcoholic beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following additional requirements:

- (1) A dining space containing 600 square feet or more on one floor in one room shall have a mandatory class I designation.
- (2) The dining room shall be equipped with tables and chairs or booth seating accommodating at least 40 persons at one time and adequately air conditioned and heated as appropriate.
- (3) All spaces of a class I restaurant must comply with any adopted building code occupancy requirements.
- (4) A kitchen separate and apart from said dining area, but adjoining the same, in which food is prepared for consumption by the public and which the food or meals served in said dining area are prepared.
- (5) At least two meals per day shall be served at least five days a week, with the exception of holidays, vacations and periods for redecorating.
- (6) Such place shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on-premises license.
- (7) The serving of 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 the business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute at least 60 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts,

one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the City during regular business hours as the City Clerk, or duly authorized representative, may request.

Restaurant, class II: A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a diversified selection of food, refreshments and alcoholic beverages are offered for sale for consumption within the building in which the establishment is located, and which meets the following requirements:

- (1) A dining space of less than 600 square feet on one floor in one room.
- (2) Said dining room shall be equipped with tables and chairs or booth seating accommodating a number of persons meeting with all the adopted building code occupancy requirements.
- (3) The dining space shall be adequately air conditioned and heated as appropriate.
- (4) 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 area are prepared.
- (5) At least one meal per day shall be served for each day open.
- (6) Such place shall meet the minimum requirements for a Alabama Alcoholic Beverage Control Board on-premises license.
- (7) The serving of food or meals shall constitute the principal business of such establishments, with the serving of liquor, malted or brewed beverages, wines or other alcoholic beverages being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute at least 60 percent of the total gross receipts of the business. The licensee of such establishment shall maintain separate cash register receipts, one for food and one for liquor, malt or brewed beverages, wine or other alcoholic beverages. In addition, the licensee for such establishment shall maintain all invoices for the purchases of food and all types of alcoholic beverages and shall preserve such records for not less than three years. All such records shall be available for inspection and audit at the licensee's premises within the City during regular business hours as the City Clerk or duly authorized representative, may request.

Examples, without limitation, of a class II restaurant are as follows:

- a. A place of business meeting all other required criteria which may not be open for all meals of each day.
- b. A place of business meeting all other required criteria which may not be open five days a week.

c. Delicatessen, dinner theaters, cafes, eateries, bistros and similar small establishments.

d. A place of business meeting all other required criteria but also presenting a minimum of nine hole public golf course that may also sell food and alcoholic beverages on the golf course, with the following exceptions: (1) No minimum meal per day requirement; (2) food sales in any 90 day period must equal ten (10) percent of gross revenue of food and beverage operation.

School: A State accredited public or private elementary, intermediate, middle, junior or senior high school or community college.

Specialty beverage store: An establishment principally operated for the sale of a diversified selection of both domestic and imported beer and/or wine, but not liquor, in unopened containers for off-site consumption. Such establishments may apply for the following licenses: (i) Retail table wine for off-premises consumption, and (ii) Retail beer license for off-premises consumption. In addition, the owner of a specialty beverage store may apply with the City for an on-premises beer and wine license for the purpose of offering up to no more than two wine/beer tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge. In such case, the establishment may also apply for a retail table wine license for on-premises consumption, and (iii) Retail beer license for on-premises consumption.

Specialty wine and beer establishment: An establishment principally operated for the sale of a diversified selection of domestic beer, imported beer, domestic wine, and imported wine. Where otherwise permitted by the Alabama Alcoholic Beverage Control Board, such establishments must apply and hold the following licenses:

- (i) Retail table wine [license] for off-premises consumption,
- (ii) Retail beer license for off-premises consumption,
- (iii) Retail table wine license for on-premises consumption, and
- (iv) Retail beer license for on-premises consumption.

All sales for off-premises consumption must be in sealed, unopened containers. A specialty wine and beer establishment must also offer incidental food service, including the sale of food for on-premises consumption and the sale of containerized, gourmet foods for off-premises consumption, but not in such a manner that the establishment will constitute a class I or class II restaurant. A specialty wine and beer establishment may offer up to two tasting events per month of their product. With respect to these tastings, no alcohol shall be served free of charge. For purposes of this section, the phrase “diversified selection” shall mean a selection of no less than 50 different commercially available types of wines (with at least six bottles of each type in stock at the premises), and no less than 15 different commercially available types of beer (with at least one case of each type in stock at the premises).

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

Unopened container: A container containing alcoholic beverages which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

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.

Sec. 1-4. LOCATION OF LICENSED PREMISES.

(a) In addition to all other regulations and restrictions, no facility or property located in the City of Guin shall be authorized for the sale of on-premises consumption or for the sale of off-premises consumption of alcoholic beverages, upon determination by the City Council that the operation and location of such business will adversely affect the health, safety, and well-being of the residents of Guin, or create a danger or nuisance to the residents or property owners in the immediate area which cannot be abated.

(b) In addition to all other regulations and restrictions, and subject to exceptions contained in this section, no facility or property shall be authorized for the sale of on-premises consumption or for the sale of off-premises consumption of alcoholic beverages where the facility or property is less than 200 feet from any church, public or private elementary, intermediate, middle, junior high, or high school. The aforesaid distance restrictions in this subsection shall not apply in the following enumerated cases:

(1) Where the facility or property is separated from the church or school facility by a street or highway having four or more traffic lanes.

(2) 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.

(3) Where the establishment upon the facility or property is a grocery store as defined herein.

(4) When the establishment has a Class I or Class II Club Retail Liquor License or Class I Lounge Retail Liquor License the required distance from any church or school shall be 2500 feet.

(c) In addition to all other regulations and restrictions, and subject to exceptions contained in this section, no facility or property shall be authorized for the sale of on-premises consumption

or for the sale of off-premises consumption of alcoholic beverages which is to be situated in any residential subdivision or exclusively residential neighborhood, whether or not its restrictive covenants prohibit the same; within 200 feet from any occupied residence; within 200 feet of any hospital or nursing home facility; or within 200 feet from any public ballfield, playground, gymnasium, or public park frequented by minors. The aforesaid distance restrictions in this subsection shall not apply in the following enumerated cases:

(1) Where the said facility or property is separated from the above-noted premises by a street or highway having four or more traffic lanes; or

(2) Where the said facility or property is in existence as a commercial business at the time of adoption of this Ordinance, and is situated on a Federal, State, or County Highway; or

(3) When the City Council makes a determination that special circumstances exist which remove or largely negate the possibility that any significant dangers or nuisances will be caused by operation of the said facility or property at a particular location.

(d) When measuring from a church or school, the closest exterior wall of the closest building in the church or school complex wherein an essential function or activity of the church or school is carried on shall constitute the beginning point for measurement. If the church or school is located in the same structure as persons, businesses, organizations or entities other than a church or school, the closest exterior wall of the part of the structure occupied by a church or school shall be the point to which such measurement is made. When measuring from the facility, the closest point on the exterior wall of the building occupied by the person seeking to sell alcoholic beverages shall be used for measurement purposes if the building is occupied solely by that person; otherwise, such measurement shall be made from the closest point of the person's occupancy within the building in question. The method of measurement is a straight line from the aforementioned defined points. The same measurement procedures shall apply to any public ballfield, playground, gymnasium, or public park frequented by minors, residential subdivision, occupied residence, hospital, or nursing home noted above, except that measurements from a public ballfield, playground, gymnasium, public park, or residential subdivision shall begin at the nearest point thereto.

(e) The City Council hereby designates the City Clerk, or a representative appointed by said Clerk as the person to determine the distances between any church, school, or other facility which is subject to this Section, and an establishment for the sale of alcohol, and they shall have the right to enter upon any premises at any reasonable time for the purpose of making measurements that are necessary to carrying out his/her duties under this section.

(f) Any person aggrieved by the decision of the City Clerk, or his/her representative may appeal the decision to the City Council. Such an appeal must be filed in writing within ten days of the date of the decision and must specify the details of the reason for the appeal. The Council shall hold a public hearing on such appeal at its next regularly scheduled meeting which is at least 14 days after the appeal is received by the City Clerk. The aggrieved party shall have the right to address the Council and present any relevant evidence and testimony at said hearing. The decision of the Council shall be final.

Sec. 1-5. MAINTENANCE OF ORDER; REPORT OF VIOLATION.

It shall be the duty of each licensee and of each manager or supervisor at any time charged with the management and supervision of any retail liquor, retail table wine or retail malt or brewed licensed premises, while the same are open to the public, to maintain order upon the premises and to exclude from the premises any person who is drunk and disorderly or who commits any breach of the peace, or who uses or engages in offensive, disorderly, threatening, abusive or insulting language, conduct or behavior with the intent to provoke a breach of the peace, or whereby a breach of the peace might be occasioned. It shall be the duty of each officer, licensee, manager, or person-in-charge of any retail liquor, retail table wine or retail malt or brewed beverage licensed premises within the City, immediately to make an appropriate report to the police department of the City of each assault, assault and battery or affray, occurring on the licensed premises while said premises are open for business. It shall further be the duty of said person to make a written report of each of said incidents to the police department of the City and to the local field office of the Alabama Alcoholic Beverage Control Board within 36 hours thereof.

Sec. 1-6. OFFENSES IN PUBLIC.

(a) It shall be unlawful for any person to drink, sell, serve, dispense or give away, or attempt to drink, sell, serve or give away, any liquor, wine or malt or brewed beverages, while upon any street, alley, sidewalk, public easement, rights-of-way, parking lots designed for use by the general public or in any public building or upon any public property, or while in any other public place in the City. The meaning of the term "public place" is defined hereinabove.

(b) It shall be unlawful for a business licensed by the City, whether or not the business is licensed to sell or furnish alcohol to allow patrons, customers, invitees or guests to bring alcoholic beverages into or onto the licensed premises.

(c) It shall be unlawful for patrons, customers, invitees or guests to bring alcoholic beverages onto premises licensed to do business by the City, whether or not the business is licensed to sell or furnish alcohol.

Sec. 1-7. SALES TO PERSONS UNDER THE LEGAL DRINKING AGE OR VISIBLY INTOXICATED PERSONS BY SELLER OR AGENT.

(a) It shall be unlawful for any person, or for any employee, servant, or agent of any person, to sell, or offer for sale, any alcoholic beverage to: (1) a person under the legal drinking age, as defined in *Code of Alabama* Section 28-1-5; or, (2) to any person visibly intoxicated.

(b) It shall be unlawful for any person to serve to a person under the legal drinking age, as defined in *Code of Alabama* Section 28-1-5, any alcoholic beverage in any place where such beverages are sold.

(c) It shall be unlawful for any person who operates any business selling alcoholic beverages to

allow any such alcoholic beverage to be sold to a person under the legal drinking age, as defined in *Code of Alabama* Section 28-1-5; or to be consumed by any such person under the legal drinking age, on the premises where such alcoholic beverage is sold.

Sec. 1-8. OTHER OFFENSES.

It shall be unlawful to do or perform any of the following acts or things, to-wit:

(a) For a person under the legal drinking age, as defined in *Code of Alabama* Section 28-1-5, directly or indirectly, to: (1) purchase or attempt to purchase any alcoholic beverage; (2) possess or consume any alcoholic beverage, or (3) directly or indirectly to falsely represent that such person is not a minor or not under the age of twenty-one (21) years of age, by means of which false representation such person buys, receives, or otherwise obtains, or attempts to buy, receive, or otherwise obtain any alcoholic beverage.

(b) For any person to sell, furnish, give to, purchase, or to attempt to sell, furnish, give to, or purchase for a person under the legal drinking age, as defined in *Code of Alabama* Section 28-1-5, any alcoholic beverage.

(c) For any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not 21 years of age, by means of which false representation such person aids or abets or attempts to aid or abet, such minor person to buy, receive or otherwise obtain any alcoholic beverages.

Sec. 1-9. AUTHORIZED HOURS.

It shall be unlawful for any person, whether a liquor, wine or beer licensee or not, to sell, offer for sale or to serve, dispense or offer for reward, or to offer to serve or dispense for reward any liquor, wine, or beer, or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 12:00 am. and 8:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of any week, or between the hours of 12:00 a.m. on Sunday of any week and 8:00 am. of the following Monday.

Sec. 1-10. REGULATION OF CONDUCT IN CLUBS, ETC.

It shall be unlawful for any person, club, firm or corporation or the officers, members, agents, servants or persons in charge thereof at any club or at any other place to which the public generally resorts or is admitted, which is a liquor, wine or beer licensed place, or any combination thereof, to permit, allow, conduct or condone any of the following:

(1) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashier or any lewd or indecent conduct.

(2) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(3) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.

(4) Acts involving the displaying of the anus, vulva or genitals.

(5) Permitting any patron, customer or member to touch, caress or fondle the breasts, buttocks, anus or genitals, or any part of the body or clothing of a performer or entertainer.

(6) Permitting the showing of films, still pictures, electronic reproductions or other visual reproductions depicting: (a) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; (b) any person being touched caressed or fondled on the breasts, buttocks, anus or genitals; (c) scenes wherein a person displays the vulva or the anus or the genitals; (d) scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in this section.

(7) Any employee including but not limited to, waiter, waitress, dancer, entertainer, performer or model employed upon the licensed premises to sit at tables with the customers or members and guests while so employed and during the time that said establishment is open for business.

(8) Any person at the time employed or engaged on the licensed premises as an entertainer or performer, to also serve as a waiter or waitress while so employed.

(9) The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the darkened area surrounding the nipple, or the depiction of covered male genitals in a lewd or indecent manner by any waiter, waitress, dancer, entertainer, employee, model or customer.

Sec. 1.11. RECORDS, REPORTS.

It shall be the duty of each person subject to the license tax imposed by this article to keep full and complete records of all purchases, sales and deliveries of alcoholic beverages, from which records can be readily obtained information as to the correct amount of license tax due the City. As a part of such records, each wholesaler shall keep an individual ledger or card account for each record, each wholesaler shall keep an individual ledger or card account for each of his customers, and said ledger or card account shall show the correct name and address of each person to whom any alcoholic beverages are delivered, together with the dates thereof and the number of cases sold or delivered, and each wholesaler shall also keep, as evidence of the foregoing, a receipted delivery ticket signed by each purchaser or by his authorized agent. Each retailer shall keep an individual ledger or card record showing the correct name and address of each person from whom he purchased alcoholic beverages, a delivery ticket showing each such purchase, the date thereof and the number of cases purchased. The aforesaid records shall be kept posted currently and shall be preserved for not less than three years succeeding said calendar year. All of such records shall be open for inspection and audit at the licensed premises within the City during such regular business hours as the City Clerk, or duly authorized representative, may request. Failure to keep any of the records required by this section, or elsewhere in this article, or by any amendment thereto, or refusal to make the same available to the City Clerk, or duly authorized representative, shall constitute grounds for revocation of any license issued under this article. In addition thereto, in January of each year,

each person who is obligated to pay a privilege or excise tax to the City based on the gross receipts of the business shall file an annual report, made under oath, showing the gross receipts of the business for each month during the prior calendar year.

Sec. 1-12. PACKAGING OF BEVERAGES.

Retail licensees for sale of off-premises consumption of individual or packages of six or less alcoholic beverages must place each container thereof in a bag, box or other similar opaque covering prior to the customer's leaving the licensee building used for alcoholic beverage sales.

Sec. 1-13. OPEN CONTAINERS.

It shall be unlawful for any person to or allow another person to:

(1) Possess, consume or otherwise use any open container containing alcoholic beverages while upon or along any public place, street, road or highway in the City. The above notwithstanding, this section shall not apply to any person falling under the provisions set forth in Section 32-5A-330, *Code of Alabama*, 1975, as amended.

(2) Possess or use any alcoholic beverages at any public park, municipal playground, municipal recreation facility, school playground, and school stadium or school recreational facility.

(3) Possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag or other receptacle, while upon or along any public street, road or highway in the City or while in any automobile or other motor vehicle on or along any public street, road or highway in the City, or while in any other public place in the City.

Sec. 1-14. DISCRIMINATION PROHIBITED.

It shall be unlawful for any alcoholic beverage licensee of the City to discriminate against any person with respect to the sale of any food, beverage, product, cover charge, or admission charge based upon race, color, creed, or sex. It is specifically provided that no alcoholic beverage licensee shall have or permit any entertainment, show, or presentation on the licensed premises to which any person is excluded based upon race, color, creed, or sex. This section shall apply to the licensee, manager, to any person in charge of any licensed premises, and to any employee of the licensee authorizing, permitting, or committing any violation hereof.

Sec. 1-15. ADVERTISING.

It shall be unlawful for any business to display signs of any kind advertising alcoholic beverages, whether electric, painted, or of any other nature, outside of any place of business or inside any place of business in a position visible from outside the building, except on the rear-most wall. The rear-most wall is defined as that wall furthest and opposite to the entrance to said business. This prohibition does not apply to aisle or floor merchandise displays not generally visible from outside the building. Any signage otherwise placed shall make no reference to beer, wine, malt beverage, liquor or mixed drinks. There shall be no signs or banners outside the premises of any retail licensee which advertise a particular manufacturer or brand of beer except that special

events shall be permitted to have such signs and banners which advertise a particular brand of beer, wine, malt beverage or liquor. Otherwise, there shall be no advertising of alcoholic beverages by means of billboards or other fixed signs within the city limits of the City of Guin. Display of advertising and violation of this section shall be considered a violation of the ordinance and punishable in accordance therewith.

Sec. 1-16. VIOLATION OF STATE CODE.

It shall be unlawful for any person to violate any provision of Title 28 of the *Code of Alabama*, 1975, as amended, and such violation shall be considered a misdemeanor against the City of Guin, and punishable the same as any other violation of this Article.

Sec. 1-17. ADOPTION OF CERTAIN STATE CONTROL BOARD REGULATIONS.

The rules and regulations adopted and promulgated by the Alabama Alcoholic Beverage Control Board, in effect as of the date upon which this Ordinance takes effect, and as may be adopted or amended, by such board, the violation of which constitutes a misdemeanor, are hereby adopted by the City and shall be considered a misdemeanor against the City and punishable the same as any other violation of this Article.

Sec. 1-18. PUNISHMENT GENERALLY.

Any person violating any of the provisions of this Article shall upon conviction be punished by payment of a fine not to exceed Five Hundred Dollars (\$500.00), and incarceration for a period not to exceed Six (6) months, in addition to any other penalties provided herein.

Sec. 1-19. INSPECTION.

It shall be unlawful for any licensee to refuse any authorized employee of the City the right to completely inspect the entire licensed premises at any time during the which the premises are open for the transaction of business.

ARTICLE 2. LICENSES.

Sec. 2-1. APPLICABILITY WHEN COUNCIL APPROVAL REQUIRED.

In those instances where the consent and approval of the City Council is required for an alcoholic beverage license, other than where specified by statute, the application provisions of this article shall apply.

Sec. 2-2. LICENSE REQUIRED; TRANSFER, SUSPENSION; DISPLAY.

(a) It shall be unlawful for any person to have in such person's possession any alcoholic beverages, within the City, for the purpose of sale, or to sell, or keep for sale, or offer for sale, any alcoholic beverages, without having first procured from the City a privilege license and the state alcoholic beverage control board a liquor license thereof. The City is hereby authorized to allow the address for the privileged licensed premises to be changed from one place to another

within the City, as the City may determine appropriate; but shall not allow the transaction of business at a place for which the license could not originally have been issued lawfully.

(b) In the event of a change of ownership of a licensed establishment, the current licensee and buyer shall be required to file a written statement with the City Clerk indicating this occurrence prior to either completing the sale of the licensed business, or relinquishing management or financial control of the business operation, whichever occurs first. The buyer and seller must also complete a transfer agreement with the state alcoholic beverage control board prior to or the day of the sale of the business. Additionally, the party to whom the licensed establishment is to be sold must file with the City a completed application for a license from the City within 30 days of notification to the City of the intent of the licensee. Upon request of the City Clerk, or designated representative, any applicant may be requested to produce records of the business or the transaction surrounding the sale of the business to determine the parties involved or the effective date of the transaction. These records include, but are not limited to, lease agreements, land sale agreements, bank statements, stock transfers, minutes of corporate board meetings, and/or purchase invoices. Any failure to produce the requested records, or a determination by the City that the transaction is not in compliance with the requirements specified herein will result in an immediate forfeiture of the City license upon notification of this determination and an opportunity for a public hearing by the City Council.

(c) Licenses issued by the City shall be deemed to expire, terminate, or otherwise be void when there is a substantial change in ownership in a licensed establishment, or when a licensed establishment is leased, rented, or abandoned, or when possession is otherwise surrendered to another party. Provided, however, that an applicant for a new license at a currently licensed establishment may be allowed to operate the establishment for a period not to exceed 60 days if said applicant is in compliance with subsection (b) of this section. In such case, the original licensee shall continue to be responsible for the conduct, operation and City tax liabilities of the establishment until such time as the City, in the new licensee's name, issues a license.

(d) Upon the death of an individual licensee, sale of the licensed establishment, or temporary closing of the licensed establishment for a period in excess of 30 days, the City license to sell alcoholic beverages shall be immediately returned to the City Clerk, or designated representative, to be held pending the reopening of the business. In the event the temporary closing is due to any renovation, remodeling, or repair to the licensed premises, the licensee shall provide written evidence of compliance with applicable building, fire, and health codes to the City Clerk, or designated representative, prior to the release of the license.

(e) For the purposes of this section, and to assist in defining a substantial change in ownership, the sale or transfer of Twenty-five (25) percent or more of a corporation's stock or the sale or transfer of Twenty-five (25) percent of the membership interest in a limited liability company shall constitute a substantial change in ownership of the licensee.

(f) The City shall have the right to revoke any privilege license issued by the City for any violation of this article or the Alabama Alcoholic Beverage Control Board rules and regulations, after notice and opportunity for a hearing before the City Council.

(g) Every privilege license issued by the City to conduct normal and routine business and

license issued by the state alcoholic beverage control board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the licensed premises.

(h) Each business that changes its name shall provide the City Clerk the new information within 30 days of the name change.

Sec. 2-3. APPLICATION FOR LOUNGE, CLUB, RESTAURANT, ETC.; LICENSE DEPOSIT.

Each applicant seeking the consent and approval of the City Council for lounge retail liquor license, a club retail liquor license, a restaurant retail liquor license or other license issued by the state alcoholic beverage control board shall make application to the City Council as required in this article. Said application shall be upon an appropriate form supplied by the City Clerk, or duly authorized representative, and shall be signed and verified by oath or affirmation by the licensee, if a natural person, or in the case of a partnership, association or unincorporated enterprise, by a partner, limited liability company (LLC) or managing member thereof, or in the case of a corporation, by an executive officer thereof. The applicant shall deposit with the City Clerk the required application fee that includes the background check with the Alabama Bureau of Investigation and the amount of publication costs to be incurred hereunder upon filing the application. Each application must be accompanied by a copy of all forms and required documents previously submitted to the Alabama Alcoholic Beverage Control Board requesting approval by said board for the license being sought. In no case will the City of Guin accept and/or consider any application without all required documentation of such prior application with the Alabama Alcoholic Beverage Control Board.

Sec. 2-4. APPLICATION FOR RETAIL LIQUOR LICENSE.

Application for retail liquor license shall be made in accordance with City procedures. The Applicant must submit a copy of the application submitted to the Alabama Alcoholic Beverage Control Board.

Sec. 2-5. REVIEW OF APPLICATION.

(a) The application shall be submitted to the City Clerk, or designated representative.

(b) In the event of approval by the City Council, the City Clerk, or designated representative, shall be responsible for ensuring that written approvals of the police, building, fire and health, and City Clerk, or designated representative, are included as a part of the application indicating the satisfactory compliance with the applicable requirements for each respective department.

(c) After the City Council's approval and the applicant's compliance with subsection (b) of this section, the City Clerk, or designated representative, is hereby authorized to indicate, and communicate in writing, the City Council's approval for the issuance of a license for the applicant to the Alabama Alcoholic Beverage Control Board. The method for the communication of this approval by the City shall be determined based on the most current mechanism indicated as acceptable by the alcoholic beverage control board field office supervisor responsible for the county.

Sec. 2-6. PUBLIC NOTICE.

(a) 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 at three (3) public places within 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 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.

(b) The City Clerk shall notify all property owners, identified by the real property tax records of the Marion County Revenue Commissioner's office as being within Five Hundred (500) feet of the applicant's business location by first class mail or personal delivery to the owner or occupant of the property at least Seven (7) days prior to the scheduled hearing. The notice shall state the date, time, and place of the public hearing.

Sec. 2-7. CONSIDERATION OF APPLICATION.

In rendering a decision on each application for a license under this article, the City Council shall consider, among others, the following factors:

(1) The effects upon residents, real property owners and businesses within 500 feet of the property for which a license is sought.

(2) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.

(3) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.

(4) The location of the premises for which a liquor license whose place is sought and the number of establishments presently holding liquor licenses whose place of business are within 500 feet of the property for which a liquor license is sought.

(5) The compliance by applicant, each partner, member, officer, member of the board of directors, landlord and manager with the laws of the state and ordinances for the City.

(6) The protection of the public's health, safety, and welfare.

Sec. 2-8. FILING FEE.

There is hereby required, as a filing fee to cover the costs of processing and investigating each application filed with the City for a City license of any kind or class, the sum of Three Hundred Dollars (\$300.00), and the City Clerk or duly authorized representative shall not accept any

application for any such license not accompanied by said payment to the City along with the payment of the publication costs, as required in this article. The City shall retain the filing fee to cover the expenses of processing and investigating said application, whether or not said application results in approval or denial, provided, however, that the filing fee for a special events license applications shall be Seventy-Five (\$75.00).

Sec. 2-9. CITY ALCOHOL LICENSE FEES AND REQUIREMENTS.

(a) Each person licensed by the Alabama Alcoholic Beverage Control Board, who shall engage in the alcoholic beverage, liquor, beer or wine business within the corporate limits, prior to engaging in such business shall pay to the City, for the privilege of so engaging in business, an annual privilege business license fee and further license fees as established below:

(1) **Beer wholesale license.** Each person licensed as a beer wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state beer license by the state. In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, Title 28, Ch. 3, Art. 5B (Code of Ala. 1975, § 28-3-190, et seq.). Wholesale beer dealers and distributors will not sell to any retail outlet within the City of Guin that does not have a current City license.

(2) **Wine wholesaler license.** Each person licensed by the Alabama Alcoholic Beverage Control Board as a wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state wine license by the state. In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act (Code of Ala. 1975, § 28-7-1 et seq.). Wholesale wine dealers will not sell to any retail outlet within the City of Guin that is not properly licensed by the City.

(3) **Beer and wine wholesale license.** Each person licensed as a beer and wine wholesaler under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state wine and beer license by the state. In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of beer by Code of Ala. 1975, Title 28, Ch. 3, Art. 5B (Code of Ala. 1975, § 28-3-190, et seq.). In addition, each licensee will remit to the City Clerk, on forms provided by such Clerk, each month, the privilege or excise tax levied on the sales of table wine by the Alabama Table Wine Act (Code of Ala. 1975, § 28-7-1 et seq.). Wholesale beer and wine dealers will not sell to any retail outlet that is not properly licensed by the City.

(4) **Warehouse license.** Each person licensed by the Alabama Alcoholic Beverage Control Board to receive, store or warehouse alcoholic beverages within the City for transshipment inside and outside the state shall pay to the City an annual license fee of \$500.00.

(5) **Club retail liquor license.** Each person licensed by the Alabama Alcoholic Beverage Control Board to operate a Club, Class I or II, under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Ten Thousand Dollars (\$10,000.00) if a Class I Club, and Twenty Thousand Dollars (\$20,000.00) for a Class II Club. In addition to said stated license fee, each person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of Fifteen (15) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. In addition, each person applying for a club retail liquor license shall have a minimum of One Hundred (100) paved, striped and lighted parking spaces available for the sole use of members of the club, if a Class I Club or One Hundred (100) paved, striped and lighted parking spaces available for the sole use of members of the club, if a Class II Club.

(6) **Lounge retail liquor license, Class I.** Each person licensed by the Alabama Alcoholic Beverage Control Board to operate a retail lounge, Class I, under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of Twenty Thousand Dollars (\$20,000.00). In addition to said stated license fee, each person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of Fifteen (15) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. In addition, each person applying for a lounge retail liquor license shall have available a minimum of one hundred (100) paved, striped and lighted parking spaces for the sole use of customers of the lounge.

(7) **Retail liquor for off-premises consumption.** Each person licensed by the Alabama Alcoholic Beverage Control Board to operate a retail lounge, Class II ("package store" – for off-premises consumption only) under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Two Thousand Dollars (\$2,000.00). In addition to said stated license fee, each person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate calendar month, for the privilege of having engaged in such business, an additional license tax of Fifteen (15) percent of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(8) **Restaurant retail liquor license.** Each person licensed by the Alabama Alcoholic Beverage Control Board to sell alcoholic beverages in connection with the operation of a restaurant under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual privilege license fee of Five Hundred Dollars (\$500.00) for a Class I restaurant, and an annual privilege license fee of One Thousand Dollars (\$1,000.00) for a Class II restaurant. In addition to the stated license fee, each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of Fifteen (15) percent of the monthly gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during the immediate preceding calendar month.

(9) **Retail table wine license for off-premises consumption.** Each person licensed by the Alabama Alcoholic Beverage Control Board to sell table wine for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1 et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state wine license by the state.

(10) **Retail table wine license for on-premises and off-premises consumption.** Each person licensed by the Alabama Alcoholic Beverage Control Board to sell table wine at retail for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state wine license by the state, unless such person shall have paid for an on-premises liquor license.

(11) **Retail beer for on-premises and off-premises consumption.** Each person licensed by the Alabama Alcoholic Beverage Control Board to sell beer for on-premises and off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state beer license by the state.

(12) **Retail beer for off-premises consumption.** Each person licensed by the Alabama Alcoholic Beverage Control Board to sell beer for off-premises consumption under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Fifty (50) percent of the amount charged for state beer license by the state.

(13) **Special retail liquor license for on-premises consumption.** Each person who has obtained a special retail liquor license from the Alabama Alcoholic Beverage Control Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City a license fee of Five Hundred Dollars (\$500.00) whether the license is for a period of under thirty (30) days or a period of over thirty (30) days. In addition to said stated license fee, each such person shall pay to the City Fifty (50) percent of the amount charged for state wine license by the state. In addition to the stated license fee, each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of Fifteen (15) percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

(14) **Special events retail license for on-premises consumption.** Each person who has been recommended by the City and obtained a special events retail liquor license from the Alabama Alcoholic Beverage Control Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City a license fee of One Thousand (\$1,000.00). No such license shall be issued for a period in excess of seven (7) days. Such alcoholic beverages as are authorized by the Alabama Alcoholic Beverage Control Board may be sold. All applications for special event licenses shall be filed with the City Clerk at least Twenty-Five (25) days in advance of the event for which a license is sought. In addition to the

stated license fee, each such person shall pay to the City, on or before the 15th day of the calendar month next succeeding each separate subject month, for the privilege of so engaging in such business in said subject month, an additional license tax of Fifteen (15) percent of the monthly gross receipts derived from the sale of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month. The following shall apply to the applicant for a special event retail liquor license:

- a. Submit the required filing fee of Seventy-Five Dollars (\$75.00).
- b. Receive approval from the City Council.
- c. Receive license from state Alabama Alcoholic Beverage Control Board.
- d. Pay the required license fee Two Hundred Dollars (\$200.00).
- e. Each applicant/organization shall not be allowed to apply for more than five (5) special event licenses in any one calendar year.
- f. No sale of alcohol is to be sold during a special event on any Sunday after 2:00 a.m. shall be required to purchase the alcoholic beverages from a wholesale licensee of the Alabama Alcoholic Beverage Control Board.

(15) **Manufacturer license.** Each person who has obtained a manufacturer license from the Alabama Alcoholic Beverage Control Board under the Alcoholic Beverage Licensing Code Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Three Hundred, Fifty Dollars (\$350.00).

(16) **Importer license.** Each person who has obtained an importer license from the Alabama Alcoholic Beverage Control Board under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the City an annual license fee of Three Hundred, Fifty Dollars (\$350.00).

(17) **Wholesale liquor license.** Each person who has obtained a wholesale liquor license from the Alabama Alcoholic Beverage Control Board under Code of Ala. 1975, § 28-3A-1, et seq. shall pay to the City an annual license fee of Seven Hundred, Fifty Dollars (\$750.00).

a. The term “gross receipts,” as used in this section, shall not include any so-called “additional license tax” levied by the City under the provisions of this section that are based solely on gross sales and that are directly passed on by the licensee/seller to the consumer/purchaser.

b. The stated annual license fee levied by the schedule under the foregoing provisions shall be due January 1 of each year and shall be delinquent after January 31 of the year for which such license is due, and a penalty of ten (10) percent of the license amount shall be collected during February--March; twenty (20) percent during April--June; thirty (30) percent during July - September; and forty (40) percent during October--December. In addition, such person must pay a Two Hundred Dollar (\$200.00) citation fee. There shall be no pro rata refund of any

license fee because of having operated only a part of a calendar year, except as required under state law, nor shall any rebate be allowed upon revocation, suspension, abandonment or surrender of such license before the expiration thereof. All additional license taxes levied by said schedule shall be due on the 15th day of the calendar month specified in each levy and shall be delinquent if not reported and paid by such date.

c. Every person subject to this division may take a discount in an amount equal to Two (2) percent of all taxes paid to the City under the provisions of this division, provided the reports are made and the taxes paid before the same become delinquent hereunder. If reports are not filed within the time herein provided and the taxes not paid on the dates herein provided for, such person shall pay to the City the full amount of tax together with interest at the rate of three (3) percent per month, or fraction thereof, from the date the payment of such tax became delinquent; a penalty of Fifteen (15) percent of the amount of the tax; and a citation fee of One Hundred, Fifty Dollars (\$150.00); for which interest, penalty, and citation fee must be paid by such person.

Sec. 2-10. REPORTS OF BUSINESS DONE AND TAX DUE.

The person liable for any license tax or other tax imposed by this article shall file with the City Clerk or duly authorized representative, on or before the final date on which the tax may be paid without a penalty, such report in such form as the City Clerk or duly authorized representative, may prescribe, evidencing the amount of business done and the amount of license tax or other tax due thereon, together with full payment for any tax liability. Any failure to comply with this section shall be declared unlawful and be punishable for such, as outlined in this ordinance.

Sec. 2-11. ALABAMA RESPONSIBLE VENDOR ACT.

(a) Each business requesting to sell alcoholic beverages within the City must obtain business certification through the Alabama Responsible Vendor Program within 60 days of license approval by the state alcoholic beverage control board.

(b) Upon a business becoming decertified from the Alabama Responsible Vendor Program, the City privilege license shall be suspended or revoked for a time no more than one year.

State law references: Alabama Responsible Vendor Act, *Code of Ala.* 1975, § 28-10-1 et seq.

ARTICLE 3. EFFECTIVE DATE OF ORDINANCE.

Section 3-1. EFFECTIVE DATE.

This Ordinance shall become effective upon its passage and publication as provided by law.

Section 3-2. ORDINANCE SEVERABILITY.

If any provision of this Ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this Ordinance that can be given effect without the invalid

provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

Section 3-3. 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 the same, and in no manner intended to supersede any such statutes 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.

ADOPTED at a regular scheduled meeting of the City Council of the City of Guin, Alabama on this 2nd day of August, 2010.

MAYOR

ATTEST: _____
CITY CLERK

CERTIFICATION

I hereby certify that the foregoing Ordinance adopted by the City Council for the City of Guin, Alabama, on the 2nd day of August, 2010, as Ordinance No. 169-09-10, has been properly advertised by posting in at least three public places within the City, namely:

Witness my hand and seal on this _____ day of August, 2010.

Norma Nelson, City Clerk