

ORDINANCE No. 2007-10

An ordinance amending Chapter 5 of the City of Oxford's Code of Ordinances §§ 5-1, 5-10, 5-11, 5-12, 5-22, 5-23, 5-27, 5-28, 5-29, 5-30, 5-32, and 5-33, and adding § 5-22 ½, regarding alcoholic beverages and/or light wine and beer.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF OXFORD, MISSISSIPPI:

SECTION I: Sections 5-1, 5-10, 5-11, 5-12, 5-22, 5-23, 5-27, 5-28, 5-29, 5-30, 5-32, and 5-33, of the Oxford Code of Ordinances shall be amended as follows, and Section 5-22 ½ shall be added to the Oxford Code of Ordinances as follows:

Sec. 5-1 Intoxication.

It shall be unlawful for any person to be or to become drunk in any public place in the city in the presence of two (2) or more persons. Any person found guilty of violating this section shall be fined in any amount not exceeding One Hundred Dollars (\$100.00). *See* Miss. Code Ann. § 97-29-47.

State Law Reference - Public drunkenness prohibited, Miss. Code Ann. §97-29-47.

Sec. 5-10. Employment of certain persons.

A person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer's permit pursuant to Miss. Code Ann. § 67-1-1 *et seq.* However, this exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity of a bartender.

State Law Reference: Miss. Code Ann. § 67-1-81 (2).

Sec. 5-11. Employee information for chief of police.

Repealed.

Sec. 5-12 Investigation of employees.

Repealed.

Sec. 5-22. Definitions

When used herein the words and terms "person," "consumer," "retailer," "wholesaler," "sale," "light wines or beer," and "distributor," shall have the definitions as defined and describe in Miss. Code Ann §27-71-301, which said definitions as contained in said section of said act are

hereby adopted for the purposes of this article. For the purposes of this article, the term “bartender/server” shall mean any person whose employment requires him or her to sell or serve beer and/or light wine or alcohol directly to the public. However, persons whose employment requires only that he or she clear or bus tables that have glasses or other containers that contain or did contain alcoholic beverages, or stocking, bagging or otherwise handling purchases of alcoholic beverages, and/or that he or she wait on tables by taking orders for or delivering orders of alcoholic beverages, shall not be included in the definition of “bartender/server.” [See Miss. Code Ann. § 67-1-81 (2).]

Section 5-22 ½. Beer and Light Wine Privilege License.

(a) *Privilege License required.* Any person or entity desiring to engage in the business of selling beer and light wine at retail shall pay the City a privilege license tax in the amount as that imposed by Miss. Code Ann. § 27-71-303, § 27-71-345, and § 67-3-27 for the purpose of engaging in such business and shall file with the City Clerk an application showing that such person possesses all the requirements provided for in this article. Such applicants shall exhibit a permit as required by Miss. Code Ann. § 67-3-17 and § 67-3-23. All such City privilege licenses shall be applied for and renewed annually. It shall be unlawful for any person to engage in the business of the retail sale of beer and light wine without having first applied for and obtained from the City Clerk a privilege license to engage in such business.

(b) *Application for Privilege License.* Any person or entity desiring a license to sell beer at retail or desiring to renew such a license to sell beer and/or light wine shall file an application with the City Clerk in the form of a sworn statement giving the name of the business, its location, the mailing address, and if a partnership or firm, the name and address of each partner or member and, if a corporation, the names of two principal officers and the nature of business in which engaged. In case any business is conducted by the same person or entity at two or more separate places, a separate license for each place of business shall be required. The applicant shall further show in the sworn application for a license that the applicant and/or its principals (as identified below) possess the following qualifications:

- (1) Over 21 years of age and a person of good moral character;
- (2) No convictions in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution; and
- (3) No revocation of any license or permit to sell alcoholic liquors, beer, or light wine, pursuant to the laws of this City, this state or any other state, or of the United States, within two (2) years preceding the date of application.

If applicant is a partnership, firm, or limited liability company, all members of the partnership, firm, or limited liability company must be named and must meet the above-listed qualifications. If the applicant is a corporation, all officers and directors thereof, and any stockholder owning more than five percent of the stock of such corporation, and the person who shall conduct and maintain the licensed premises for the corporation shall possess all the qualifications required herein for an individual licensee.

Discovery of any false statement made on the application or during the application

process shall be grounds for immediate revocation of the privilege license. The licensee shall retain a list of all person employed by the licensee who sell and/or serve beer and/or light wine, including with the list the name, address and age of each such employee, and such list shall be made available upon request of municipal authorities.

(c) *Compliance Representative.* As a condition precedent to the issuance of a privilege license, the licensee must agree to appoint a compliance representative, who shall apply for a compliance representative permit with the City Clerk. Each applicant must meet the following requirements in order to receive a permit:

- (1) Must be 21 years of age or older;
- (2) Must agree to complete within two (2) months of the date of application a required training course, for a fee to be set by the Oxford Police Department, to be conducted by the Oxford Police Department pursuant to the training guidelines of the Mississippi Alcoholic Beverage Commission.

Each compliance representative permit shall be issued for a period of one (1) year, which can be renewed for the following two (2) years with no additional requirements, if neither the privilege licensee nor the compliance representative is convicted of a violation of this section or Section 5-23 during the prior year.

If the permitted compliance representative is either no longer employed by the privilege licensee or has his or her compliance representative permit revoked, then the licensee must appoint a new representative who must meet the requirements of this section.

(d) *Optional Training of Employees.* Although only the compliance representative of each licensee shall be required to attend the training course conducted by the Oxford Police Department, said training course shall be made available to all who wish to attend, subject to payment of the registration fee for same, and all privilege licensees are encouraged to offer such training to their employees.

(d) *Non-retail Sale or Distribution of Beer and/or Light Wine.* Each wholesaler or distributor of light wine or beer and each person or entity engaged in the business of brewing, manufacturing, or producing beer or light wine shall comply with the requirements of Section 5-33 in order to obtain a privilege license to engage in such business within the City of Oxford.

Sec. 5-23. Privilege license holder regulated.

It shall be unlawful in the City of Oxford, Mississippi, for any owner, proprietor, manager or employee of any establishment which has a privilege license authorizing the sale of light wine or beer at retail to violate any of the following provisions (a) through (l) of this section:

(a) *Hours regulated.* Sell, give or dispense or permit to be consumed in or upon a licensed premises, any light wine or beer during the days, Monday through Saturday between the hours of midnight and 7:00 A.M. the following morning, and on Sundays or such other times as the mayor and board may designate with the approval of the Mississippi State Tax Commission.

(b) *Sale of refrigerated wine or beer.* Sell, give or dispense or permit to be consumed any light wine or beer which has been refrigerated, except by those holding an on-premises retailer's permit as required by section 5-23 (i) herein.

(c) *Distance requirements.* Sell or store light wine or beer within four hundred (400) feet of any church, school, kindergarten or funeral home except within an area zoned commercial, business or industrial or an area bearing like designations, such minimal distance shall not be less than one hundred (100) feet, except where separated by an intervening street. Such distances shall be measured along a straight line between the nearest points of the building in which such light wine and beer is sold or stored and the building housing such church, school, kindergarten or funeral home.

(d) *Advertising signs.* Display any outside sign or signs advertising the sale of light wine or beer within the City.

(e) *Furnishing to minors.* Sell, give or furnish in any manner any light wine or beer at any time or place to any person under twenty-one (21) years of age, or to knowingly sell, furnish or give the same to any person for delivery to such minors, unless authorized pursuant to Miss. Code Ann. § 67-3-54.

(f) *Selling, giving to mentally incompetent or intoxicated persons.* Sell, give, or furnish in any manner any light wine or beer at any time or place to any person who is known to be insane or mentally incapacitated, or to any person who is visibly intoxicated, or to knowingly sell, furnish or give the same to any person for delivery to such persons.

(g) *Employing persons with violations of this Article.* Employ as a bartender/server any person who has been convicted of two (2) or more violations of this Article or Article III of this Chapter within the last six (6) months. It shall be the responsibility of the licensee/employer to conduct routine background checks of its bartenders/servers to ensure compliance with this section.

(h) *On-premises retailer's permit.* Permit the consumption of light wine or beer on the premises of any retail establishment unless such establishment holds an on-premises retailer's permit issued by the Alcoholic Beverage Control Division of the State Tax Commission of the State of Mississippi.

(i) *Lewd, immoral practices.* Permit in his presence any lewd, immoral or improper entertainment, conduct or practices.

(j) *Disorderly conduct; disturbing the peace.* Permit loud, boisterous or disorderly conduct of any kind upon his premises or to permit the use of loud musical instruments as to disturb the peace and quietude of the community wherein such business is located.

(k) *Gambling operations.* Permit or suffer gambling or the operation of games of chance upon the licensed premises.

Sec 5-27. Consumption on streets, sidewalks and other public ways.

It shall be unlawful within the corporate limits of the city for any person to consume or have in his/her possession any open container containing alcoholic beverages, light wine or beer on any street, sidewalk, alley or other public way.

Sec. 5-28. Possession by minors; penalty.

It shall be unlawful for any person under the age of twenty-one (21) years to purchase

consume or have in his possession any light wine or beer, unless authorized by Miss. Code Ann. § 67-3-54. The penalty for violating this provision shall be a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500) and a sentence to not more than thirty (30) days' community service.

The judge may in his/her discretion accept, in lieu of community service, a certificate indicating the individual has successfully completed an alcohol and/or drug education program or treatment program, at the expense of the individual.

See Miss. Code Ann. § 67-3-70.

Sec. 5-29. Minors giving false identification; penalty.

It shall be unlawful for any person under the age of twenty-one (21) years to make a false statement as to his or her age for the purpose of obtaining light wine or beer. The penalty for violating this provision shall be a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500) and a sentence to not more than thirty (30) days community service.

The judge may in his/her discretion accept, in lieu of community service, a certificate indicating the individual has successfully completed an alcohol and/or drug education program or treatment program, at the expense of the individual.

Sec. 5-30. Permit and/or license required.

(A) Business Premises: It is unlawful for any person to sell, give or dispense or permit to be consumed or possessed in or upon any premises operated as a business for profit, any alcoholic beverage, light wine, or beer without first having secured a permit and/or license authorizing the sale of such alcoholic beverage, light wine, or beer at retail. The premises herein above described and secured by a permit and/or license shall be defined as the premises approved by the Alcoholic Beverage Control Division of the State Tax Commission. A copy of said approved premises (floor plan) shall be filed with the chief of police. Provided, further, it shall be unlawful for any person to consume alcoholic beverages, light wine or beer outside of the approved premises of the business holding a permit and/or license. Provided any premises operated as a business for profit shall not include a clubhouse, game room or similar facility made available without cost to renter and/or owners of individual units within the premises wherein alcoholic beverages, light wine or beer may be furnished free of charge by said owners or renters to their guests. Provided, further, that the owner or manager of any business other than a restaurant may promote and advertise on the premises the services/products of said business by furnishing free of charge to its customers of legal age any alcoholic beverage, light wine or beer. Provided, however, that the management of any restaurant that does not possess such a permit and/or license may allow its customer to bring on the premises and consume with meals only in the restaurant area only light wine or beer or alcoholic beverages during the hours applicable to licensed on-premises retailers. Provided, further, that the management, including the owner of any such restaurant, shall abide by and comply with all applicable ordinances pertaining to on-premises retailers.

(B) The owner of any restaurant that does not possess on-premises retailer's permit before complying with subsection (a) above shall make application to be provided by the City Clerk and pay an annual fee of Ten Dollars (\$10.00) for a "restaurant consumption permit." Said permit shall be approved by the board of aldermen before said permit is valid. Any violation of any of the ordinances applicable to such restaurants shall result in a revocation of the permit by said board.

(C) The number of occupants of any building or portion thereof shall not be permitted to exceed the allowed or posted capacity. In addition, no person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assembly. Any police official, upon finding any overcrowding conditions or obstructions in aisles, passageways, or other means of egress, or upon finding any conditions which constitute a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped until such conditions or obstructions are corrected.

Section 5-32. Violations and penalties; revocation of privilege license and/or compliance representative permit.

(a) *Individuals or entities holding retail beer and light wine privilege licenses.* In addition to any other penalties prescribed by law, any business entities violating the provisions of Section 5-23 shall be subject to the following penalties:

(i) *First offense.* A beer and light wine privilege licensee that violates the provisions of Section 5-23 may have such license suspended for a period of up to two (2) weeks.

(ii) *Second offense.* A beer and light wine privilege licensee that violates the provisions of Section 5-23 a second time within 365 calendar days of the first offense may have license suspended for a period of up to three (3) weeks.

(iii) *Third offense.* A beer and light wine privilege licensee that violates the provisions of Section 5-23 a third time within 365 calendar days of the first offense shall have its license revoked. The licensee may re-apply for such license, pursuant to the requirements of Section 5-22 ½ (b)(3), after two (2) years from the date of the third violation that led to such revocation.

(b) *Bartenders/servers.* In addition to any other penalties prescribed by law, any bartender or server who in any way violates the provisions of this article in his or her capacity as a bartender or server, shall be guilty of a misdemeanor and may be fined not exceeding the sum of Five Hundred Dollars (\$500.00), or sentenced to serve not exceeding ninety (90) days in jail, or both. Further, any violation of a bartender or server of any establishment holding a privilege license pursuant to Section 5-22 ½ shall also be considered an offense of the establishment as defined in part (a) above.

(c) *Compliance representatives.* In addition to any other penalties prescribed by law, any compliance representative who does not comply with the permit requirements of this article, or in any way violates the provisions of this article in his or her capacity as a compliance

representative and/or bartender/server, shall be guilty of a misdemeanor and may be fined not exceeding the sum of Five Hundred Dollars (\$500.00), or sentenced to serve not exceeding ninety (90) days in jail, or both, and in addition any compliance representative permit issued to such person by the City shall be revoked. Further, any violation of a compliance representative of any establishment holding a privilege license pursuant to Section 5-22 ½ shall also be considered an offense of the establishment as defined in part (a) above.

Sec. 5-33. Schedule of privilege taxes.

There is hereby imposed, levied and assessed to be collected and paid to the tax collector of the city annual privilege taxes on persons engaged in the sale or distribution of light wines or beer for the privilege of engaging in or continuing in such business in accordance with Miss. Code Ann. § 27-71-303, § 27-71-345, and § 67-3-27.

SECTION II: Repealing Clause. All ordinances or parts of ordinances in conflict herewith shall be, and the same are hereby, repealed.

SECTION III: Effective Date. This ordinance shall be effective as provided for by law.

The above ordinance having been first reduced to writing and considered at a public meeting of the governing authorities of the City of Oxford, Mississippi, on motion of Alderman _____Patterson_____, seconded by Alderman _____Antonow____, and the roll being called, the same were adopted by the following vote:

Alderman Antonow	voted ___ AYE ___
Alderman Baker	voted ___ AYE ___
Alderman Fisher	voted ___ AYE ___
Alderman Howell	voted ___ AYE ___
Alderman Oliver	voted ___ AYE ___
Alderman Patterson	voted ___ AYE ___
Alderman Taylor	voted ___ AYE ___

APPROVED, this the 3rd day of July, 2007.

RICHARD HOWORTH, MAYOR

ATTEST:

LISA CARWYLE, CITY CLERK

