

**AMENDED ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN  
OF THE CITY OF POPLARVILLE, MISSISSIPPI,  
RELATING TO THE RETAIL SALE OF BEER AND LIGHT WINE**

**BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE  
CITY OF POPLARVILLE, MISSISSIPPI, in regular meeting assembled as follows:**

**SECTION 1. PRIVILEGE LICENSE REQUIRED**

Any person, partnership, firm, corporation, or entity desiring to engage in the business of selling beer and light wines at retail shall pay the city a privilege tax at the same rate as that imposed by Section 27-71-303 and 27-71-345, of the Mississippi Code of 1972 , annotated and as amended, for the purpose of engaging in such business and shall file with the City Clerk of the City of Poplarville, Mississippi, an application showing that said person, partnership, firm or corporation possesses all the requirements provided for in this ordinance, the laws of the State of Mississippi and the laws of the United States of America. Further, that proof shall be furnished that the Commissioner of the Department of Revenue has issued a permit as required by Section 67-3-17 and 67-3-23, of the Mississippi Code of 1972, annotated and as amended. All such city privilege licenses shall be applied for and renewed annually. Said licenses shall at all times be displayed in public view and conspicuously in license holder's place of business and said licenses shall not be transferable. It shall be unlawful for any person, partnership, firm, corporation, or entity to engage in the business of the retail sale of beer of an alcoholic content of not more than eight percent (8%) by weight and light wine of an alcoholic content of not more than five percent (5%) by weight without having first applied for and obtained from the City Clerk and Tax Collector a privilege license to engage in such business as aforesaid.

**SECTION 2. APPLICATION REQUIRED**

Any person, partnership, firm, corporation, or entity desiring a license to sell beer and light wine at retail or desiring to renew such license to sell beer and light wines shall file a sworn application with the City Clerk and Tax Collector in the form of a sworn statement giving the name, address, social security number and federal employer's identification number, the name of the business, its location, and if a partnership or firm the federal employer's identification number, the name and address of each partner or member and, if a corporation, the federal employer's identification number, the names of at least two principal officers, their addresses, social security numbers, telephone numbers and post office addresses, the nature of the business in which engaged and supply all information required on the application for license approved by and required by the City of Poplarville. In case any business is conducted by the same person, partnership, firm, corporation, 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 his sworn application for a license that he, the partnership, firm or corporation possesses the following qualifications:

- (a) Applicant must be over twenty-one (21) years of age and a person of good moral character and a citizen of the United States.
- (b) Applicant shall not have been convicted in this or any other state or by the United States of America of a felony.
- (c) Applicant shall not have been convicted in this or any other state within five (5) years preceding the date of his application of the laws of this or other states, or of the United States relating to alcoholic liquors or gambling or have had revoked any license or permit to sell alcoholic liquors of any kind.
- (d) Shall be the owner of the premises for which the permit is sought or the holder of a bona fide written lease thereon, the term of which shall be for a period of not less than six months.
- (e) If applicant is a partnership, firm, or entity, all members of the partnership, firm, or entity must be named giving correct addresses, phone numbers and social security numbers of each member and each of the parties shall be qualified to obtain a license.
- (f) If applicant is a corporation, all officers and directors thereof, and any stockholders owning more than five percent (5%) of the stock of such corporation, and the person or persons who shall conduct and maintain the licensed premises for the corporation shall possess all the qualifications required herein for an individual permittee; provided however, that the requirements as to residents shall not apply to officers, directors, and stock holders of such corporation, but 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 in any capacity, in the conduct or operation of the licensed premises,
- (g) Any misrepresentation on an application for a license as provided for under this ordinance shall constitute a misdemeanor and shall be punishable as provided in Section 11 of this ordinance.

### **SECTION 3. LOCATION TO BE IDENTIFIED**

- (a) In addition to the forgoing information required as to said application, the said application shall give the location of the proposed site for such sale, and the Mayor and Board of Aldermen reserve the right to determine whether or not such business shall be permitted to conduct the sale of beer and light wines at such location, and no permit shall be granted to any person, firm, partnership, corporation, or entity where it is apparent that the same shall be conducted in such close proximity to any church sanctuary, tax-supported school main entrance, private school main entrance, kindergarten, hospital or funeral home, as might prove harmful to the general welfare, health, and morals of the community. Under no circumstances shall such business be located closer to any church, tax-supported school, private school, kindergarten, hospital or funeral home than one hundred (100) feet measured from

the front door of said business along the center line of the street to the front door of any such church, sanctuary, tax-supported school main entrance, kindergarten, hospital or funeral home.

- (b) The restriction as to the location does not apply as to such businesses which have already been licensed under the terms of this ordinance prior to the construction or operation of any church, tax-supported school, kindergarten, hospital or funeral home.
- (c) Likewise, the restriction as to the location does not apply as to such business which may be licensed under the terms of this ordinance, if such license is applied for within six (6) months of the effective date of this ordinance

#### **SECTION 4. OUTDOOR ADVERTISING**

It shall be unlawful for any person, partnership, firm, corporation, or entity licensed by the City of Poplarville to sell beer or light wines:

- (a) To advertise the sale of such beer or light wines by the use of any type sign located outside the building or by the use of any type of sign located on or upon any exterior windows or doors of said building.
- (b) To advertise the sale of such beer or light wines by means of signs, billboards or displays on or along public roads, highways or streets.

#### **SECTION 5. GENERAL RESTRICTIONS**

It shall be unlawful for any persons, partnership, firm, business, corporation, or entity within the corporate limits of Poplarville, Mississippi:

- (a) To sell beer or light wines in any type business establishment other than a grocery store or convenience store. Further, that a grocery store or convenience store is hereby declared to be a store deriving seventy-five percent (75%) or more of its quarterly gross sales from sales of groceries and other items of general merchandise, other than beer and light wines. If such store or business does not derive seventy-five percent (75%) or more of its quarterly gross sales from such, the said business shall not qualify for the sale of beer and light wines.
- (b) To sell, dispense, or give beer or light wines, at anytime, to anyone who is under the age of twenty-one (21) years.
- (c) To sell, dispense, or give to anyone quantity of beer of less than a four-pack case or wine cooler of less than a four pack case. The sale of kegs will be permitted.
- (d) To permit consumption of beer or light wines on the premises of the store or business establishment selling beer and light wines.

- (e) To sell, dispense, or give beer or light wines to anyone between the hours of 12:00 o'clock a.m. (midnight) and 7:00 o'clock a.m. each day, nor to anyone at anytime on Christmas Day and Easter Sunday.
- (f) To falsely state, by a person who is under the age of twenty-one (21) years, that he is twenty-one (21) years of age or older or presents any document that falsely indicates he is twenty-one (21) years of age or older for the purpose of attempting to purchase or possess any beer or light wine.
- (g) To sell, dispense, or give beer or light wines to any persons visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard.
- (h) To permit on the premises of any place licensed to sell beer and light wines any lewd, immoral, or improper entertainment or conduct or practices.
- (i) To permit loud, boisterous or disorderly conduct of any kind upon the premises of any place licensed to sell beer or light wines or to permit the use of loud musical instruments if either or any of the same disturbs the peace and quietude of the community wherein such business is located.
- (j) To throw, leave, or put a beer or light wine can/bottle or cans/bottles on the streets, avenues, and roads of the City of Poplarville, Mississippi or throw, leave, or put a beer or light wine can/bottle or cans/bottles upon the property of anyone except the person or persons possessing said can/bottle or cans/bottles.
- (k) To sell, dispense, or give away beer or light wines from a place of business as described in this Section without having paid the privilege tax to the City of Poplarville, Mississippi, as provided by this ordinance.
- (l) To sell beer/light wine to any person when the seller knows or should know that the person to whom beer/light wine is sold is buying the same for a person under the age of twenty-one (21) years.
- (m) To work or employ anyone under eighteen (18) years of age in said place, business, or establishment where beer or light wine is sold except under proper and constant supervision of the adult owner or owners or an adult employee or employees.
- (n) To sell beer or light wine from such place of business to a person or persons in an automobile or automobiles in the form of curbside or drive-up service; Provided, however, that:
  - (1) Any person or entity currently licensed by the City of Poplarville to sell beer and light wines may submit a written application (on a form provided by the City) to the Board of Aldermen, for permission for said license holder to sell

beer and light wine from their place of business in the form of curbside or drive-up service.

- (2) The application must show a clear and compelling reason why such curbside or drive-up sales should be allowed.
- (3) The application may be approved by the City only upon majority vote of the Board of Alderman.
- (4) If the application is approved, beer and light wine may be sold in the form of curbside or drive-up service from only one (1) curbside spot or drive-up window on the licensed premises.
- (5) If the application is approved, beer and light wine may be sold in the form of curbside or drive-up service only so long as the license holder maintains a current, active license to sell beer and light wine.
- (6) If the license to sell beer and light wine expires or becomes inactive or non-current at any time, the license holder must apply for a new license and may apply for curbside or drive-up service only after issuance of the new license.
- (7) Any curbside or drive-up service allowed or authorized by the City shall fully comply with all other requirements of this ordinance, as amended.
- (8) The City may revoke a license holder's authority to sell beer and light wine in the form of curbside or drive-up service at any time for any violation of this ordinance, upon majority vote of the Board of Aldermen.

## **SECTION 6. RIGHT OF INSPECTION**

The Mayor and Board of Aldermen shall have the power and authority to demand the inspection of all invoices, sales tax reports and other business papers or records which would reflect the true amount of gross sales had by a licensed business. The Mayor and Board of Aldermen shall have the right to demand such records at least quarterly, or more often, if the Mayor and Board of Aldermen shall have any reason to believe that at least seventy-five percent (75%) of the gross sales of such business selling beer and light wine is not derived from the sale of groceries and other items of general merchandise. The failure to furnish said records to the Mayor and Board of Aldermen or to any designated employee of the City of Poplarville shall be a violation of the ordinance and shall be punishable as herein provided. Further, the Mayor and Board of Aldermen shall immediately revoke the license of any person, partnership, firm or corporation refusing to furnish said records to the Mayor and Board of Aldermen or any designated employee of the City of Poplarville.

## **SECTION 7. CONSUMPTION RESTRICTIONS**

- (a) It shall be unlawful for any person to consume or possess an open container of beer or light wine on any property which is publicly owned within the City of Poplarville. As applied to this Section 7: Consumption Restrictions, an “Open Container” shall be deemed to be any beer or light wine container which has been opened, any bottle of beer or light wine on which the seal has been broken or any container, such as a glass or cup, from which beer or light wine is being consumed.
- (b) It shall be unlawful for the driver and/or passenger of a motor vehicle to have on his person or in his possession beer or light wine in an open container.
- (c) It shall be unlawful for any person to possess an open container on property open to the public, including buildings, parking lots, sidewalks, streets, public and private schools and parks within the municipal boundaries of the City of Poplarville.
- (d) If an establishment is properly permitted and licensed for the sale and consumption of beer or light wine on the premises, it will not be a violation of this section for customers to consume beer or light wine while within the premises within which the possession and consumption of beer and light wine is allowed under the City of Poplarville ordinances.

## **SECTION 8. RESTAURANTS**

Notwithstanding any of the other provisions of this ordinance, the sale and consumption of beer and light wines by the drink shall be lawful within restaurants and cafes when served with meals. Restaurants and cafes shall be defined as those establishments which are enclosed, together with patio or other open area used in conjunction with such restaurant or café, in the primary business of preparing and serving food for consumption within those premises and who derive seventy-five percent (75%) of their gross receipts from the sale of such prepared food. The sale and consumption of beer and/or light wine with such meals shall be permitted only between the hours 11:00 a.m. and 12:00 a.m. (midnight). The removal of any open container of beer or light wines from such enclosure shall be unlawful as otherwise herein provided.

It shall be lawful to employ a person who is under the age of twenty-one (21) years in restaurants and cafes and such person so employed shall not be deemed to unlawfully possess or furnish beer or light wine, if in the scope of his employment such person:

- (a) Waits on tables by taking orders for beer or light wine; or
- (b) Cleans or buses tables that have glasses or cups that contain or did contain beer or light wine.

## **SECTION 9. SPECIAL EVENTS**

- (a) Notwithstanding any of the other provisions of this ordinance, an open container, as is herein defined, shall be lawful within a meeting room, ballroom, or similarly designated area, if rented or reserved for the purposes of a special event, including but not limited to weddings, hospitality rooms for conferences, rehearsal dinners, dinner theaters, reunions or political functions, and at which food is served. Provided, further, such special event may only be catered by a restaurant or café which is licensed to sell beer and light wines under the provisions contained in this ordinance. The serving of food such as party foods, light refreshments, appetizers, hors d'oeuvres, finger foods or similar offerings at an event here described shall satisfy the requirement thereof. The removal of any open container of beer or light wine from the building or enclosure where such event is held shall be unlawful as otherwise herein provided. Provided, further, the caterer of such special event where beer and/or light wine will be served shall file with the City Clerk, not less than 48 hours prior thereto, a statement on a form to be furnished by the City designating the time, date and location of such special event and the purpose of such event.
- (b) Notwithstanding any of the other provisions of this ordinance, the sale and/or consumption of beer and light wines by an open container shall be lawful if such sale and/or consumption occurs during a community outdoor event or happening, the holding of which has been duly licensed by the City. Events or happenings may include, but not be limited to, festivals, fairs, street fairs, cook-off contests, craft sales and shows, bazaars, and other similar activities, and to which the general public is invited to participate. Such sales and/or consumption shall occur only in such area of the city designated for the conduct of such outdoor event or happening; may be limited to occur only within a designated area within the area designated for the event or happening; and shall occur only on the date and during the hours which such event or happening has been licensed to be held.
- (c) Anyone desiring to sell beer and light wines at such event or happening authorized in the preceding paragraph (b) shall possess those same qualifications required by Section 2 of this ordinance, with the exception of that required in subsection (d) thereof, and shall have obtained from the City a license as herein provided. In addition thereto, such applicant shall also have obtained from the City a license as a transient vendor and have paid to the City the fee for such privilege license. Provided, however, no such license shall be issued unless the sponsor of the event or happening has indicated upon its permit application a consent for such sales and/or consumption to occur at the event or happening.

## **SECTION 10. AGE RESTRICTIONS**

It shall be unlawful for any person within the corporate limits of the City of Poplarville, Mississippi, to possess, give, buy or receive beer or light wines unless twenty-one (21) years of age or older.

However, a person who is under the age of twenty-one (21) years shall not be deemed to unlawfully possess or furnish beer and light wine, if in the scope of his employment such person stocks, bags or otherwise handles purchases of beer and light wine at a store.

Further, a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years may possess and consume beer (light wine not included) with the consent of his parent or legal guardian and in the presence of his parent or legal guardian.

#### **SECTION 11. PENALTY FOR VIOLATION**

The Mayor and Board of Aldermen shall suspend or revoke the license of any retailer of beer and light wines who has been convicted of violating this ordinance, and such revocation of a license shall be in addition to and not in lieu of or as a limitation of any other penalty provided by this ordinance.

Any person, partnership, firm, or corporation violating any provisions of this ordinance shall be fined no less than \$100.00 and not exceeding \$1,000.00 or imprisoned in the city jail for not in excess of six (6) months or be punished by both such fine and imprisonment and/or a sentence of not more than thirty (30) days community service. Each and every violation shall be a separate offense and separate fines, imprisonment and/or community service may be assessed for each offense.

The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

#### **SECTION 12. REPEAL OF CONFLICTING ORDINANCES**

All former ordinances, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

#### **SECTION 13. SEVERABILITY**

If any part, or parts, of this ordinance be held unenforceable, the rest and remainder hereof shall not be affected thereby and shall remain in full force and effect.

#### **SECTION 14. EFFECTIVE DATE OF ORDINANCE**

This Ordinance shall be effective thirty (30) days after its adoption and publication as required by law.

The above and foregoing Ordinance having been first introduced in writing, was read and passed section by section, and then as a whole. Upon the question having been called for, the result of a roll call was as follows:



Alderman Glen Bolin	voted Aye
Alderman Jason Pearson	voted Aye
Alderman Margaret Smith	voted Aye
Alderman Byron Wells	was Absent
Alderman Shirley Wiltshire	voted Nay

The ordinance having received the affirmative vote of a majority of the members of the Board of Aldermen of the City of Poplarville, Mississippi, the Mayor declared said Ordinance to have been duly adopted.

**SO ORDAINED, APPROVED AND ADOPTED** the \_\_\_\_ day of \_\_\_\_\_, A.D., 2015.

---

**BRAD NECAISE, Mayor**

**ATTEST:**

---

**JODY STUART, City Clerk**