

State of Alabama
DeKalb County
City of Henagar

Ordinance No. 2017-0101

AN ORDINANCE REGULATING THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF HENAGAR, ALABAMA; ESTABLISHING LICENSE FEES AND TAXES; PROVIDING PROCEDURES; ESTABLISHING PUNISHMENT FOR VIOLATIONS AND OTHER MATTERS

WHEREAS, the City Council of the City of Henagar, Alabama, wishes to establish its Alcoholic Beverage Ordinance, among other things;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Henagar Alabama, sitting in regular session on the 30 day of January, 2017, as follows:

Article I : General Provisions

Section One: Short Title

This ordinance shall be known as and may be cited as the "Henagar Alcoholic Beverage Ordinance."

Section Two: Purpose

This ordinance is enacted for the purposes, among others, of promoting the general health, safety, and welfare of the City, of establishing reasonable standards for the regulation and control of the sale, delivery, and consumption 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, all with the 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 ordinance shall be construed as an exercise by the City of the police power of the State delegated to the City for the regulation of traffic in alcoholic beverages within the City as provided by state law.

Section Three: Applicability

The provisions of this ordinance shall only be in force and effect within the corporate limits of the City of Henagar, Alabama, ("City"), and shall not apply within the police jurisdiction outside the corporate limits of the City.

Section Four: Definitions

Whenever used in this article, the definitions set forth in Ala. Code Section 28-3-1 *et seq.* (1975) are 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:

Abandonment: The closing of a licensed business for a period of time greater than twelve (12) months, regardless of the purpose, reason, or circumstances.

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 percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

Association: A partnership, limited partnership, limited liability company (LLC), or any form of unincorporated enterprise.

Bartender/Server/Waiter/Waitress: 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 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. The term shall also include keg beer and draft beer, which is beer or malt beverage served from a keg or cask rather than a bottle or can.

Board: The Alcoholic Beverage Control Board of the State of Alabama.

Bottomless: The state of undress wherein a person is wearing no clothing below the waist, or where a person is exhibiting any portion of the buttocks, anus, rectum, genitalia, or pubic area.

Business Owner: A person or person 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 for the market by the manufacturer or importer and from which the alcoholic beverage is consumed by or dispensed to the public.

Child Care Facility: A child development program or club that promotes extended educational services that is funded partially or completely by federal, state, or local government revenue (i.e. Head Start Programs, Boys & Girls Club, etc.). The definition

of "child care facility" shall also include any day care center licensed by the Alabama Department of Human Resources.

Church: Church shall mean 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. For the purposes of this chapter, a chapel or any room used for religious purposes and called by a name within a nursing home, retirement home, hospital, medical clinic, funeral home or cemetery shall not be considered a church.

City Alcohol License Fee: A fee charged by the City to a person or persons that has been granted approval by the Alabama Alcoholic Beverage Board for the privilege of selling alcoholic beverages within the City limits as herein enumerated and defined.

Club:

- (a) Class 1: A corporate association organized or formed in good faith by authority of law and which must have at least 100 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which belong to all the members and which maintains and establishments provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.
- (b) Class 2: A corporation or association organized or formed in good faith by authority of law and which must have at least 50 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

Convenience Store: An establishment that sells convenience items, snacks, grocery items, gasoline, and/or other motor fuels. A convenience store shall not be considered a package store if no more than 25 percent of the floor space, excluding coolers and dry storage area, is dedicated to the public display of alcoholic beverages.

Corporation: A corporation or joint stock association organized under the laws of this state, the United States, or any other state, territory or foreign country, or dependency.

Distributor: Any person or association who directly sells alcoholic beverages to retailers and business owners who are involved in the retail sale of alcoholic beverages.

Engaged in Business: A person shall be deemed to be engaged in business within the City corporate limits if that person has a fixed place of business offering for sale or consumption any alcoholic beverages within the corporate limits, or if pursuant to an agreement of sale, expressed or implied, that person delivers any alcoholic beverage within the corporate limits.

Fixed Place of Business: Any place where any alcoholic beverage is kept or stored for sale or delivery.

Fortified Wine or Vinous Liquor: Any wine containing more than 16.5 percent alcohol by volume but not more than 24 percent. Fortified wine is vinous liquor.

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 (10%) of its total gross sales and whose floor space is at least five thousand (5,000) square feet. A retail establishment selling gasoline shall not be considered a grocery store.

Importer: Any person, association, or corporation engaged in importing alcoholic beverages, liquor, wine, or beer, manufactured outside of the United States of America into this State or for sale or distribution in this state, or to the Board or a licensee of the Board.

License: A retail alcoholic beverage license or any other license issued by the Board requiring consent and approval of the city counsel.

Licensee: Any person licensed by the City or the Board to engage in business involving the sale or delivery of any alcoholic beverage.

Liquor: Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, 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 percent or more by volume, except beer and table wine.

Liquor Store: A liquor store operated by the Board, where alcoholic beverages other than beer are authorized to be sold in unopened containers. (check on this)

Lounge: Any place or premises in which liquor or wine is offered for sale or consumption within the building in which the establishment is located, which is operated by a responsible person of good reputation and which meets the following additional requirements:

- (1) A space for at least 1,000 square feet on one floor in one room equipped with tables and chairs to accommodate seating of at least 50 persons at one time.
- (2) A minimum of one off-street paved and lined parking space for each 100 square feet of lounge area, provided that this requirement shall be in addition to the parking requirements for any other uses in the same building.
- (3) Such establishment shall otherwise meet the minimum requirements of the Alabama Alcoholic Beverage Control Board for an on premises lounge retail liquor license.
- (4) A premises licensed for a lounge retail liquor (class I or II), shall not be eligible for any other license.

Manager: An employee (or an owner) 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 deigned 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 performances, and employee hiring or discipline.

Manufacturer: Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying, or compounding of alcoholic beverages, liquor, beer or wine in this state or for sale or distribution in this state or to the board or to a licensee of the board.

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.

Merchandise Store with Incidental Table Wine Sales: An establishment principally operated for the sale of apparel, home decor, art, jewelry, antiques, or specialty gift merchandise, and that also offers the sale of a diversified selection of both domestic and imported table wine, but not beer or liquor, in unopened containers for off-site consumption. Such establishments may apply for a license for retain table wine for off-premises consumption. The sale of alcoholic beverages shall be no more than 10% (ten percent) of its gross annual sales, and no more than 15% (fifteen percent) of the public floor space may be dedicated to the public display of alcoholic beverages. In addition, the owner of a merchandise store with incidental wine sales may apply with the city for an on-premises wine license for the purpose of offering up to two wine tastings per month of their product. With respect to these tastings, no alcohol shall be served free of charge. In such cases, the establishment may also apply for a retail table wine license for on-premises consumption.

Minor: Any person under 21 years of age.

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

Package Store: Those retail licensees who declare to the Board that their primary business shall be the sale of alcoholic beverages for off-premises consumption and who further declare their compliance with Regulation 20-x-5-, 12 of the Board.

Person: A natural person, association of natural persons, partnership, corporation or other legal entity. Whenever used in a provision prescribing a fine or imprisonment, the term "person" shall mean the partners, members, directors or officers of any partnership, association, corporation or other legal entity.

Person in Charge (PIC): A person or persons, 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, the state alcoholic beverage control board, and the ordinances of the city, as 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 or persons 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 right-of-ways, parking lots designed for use by the general public, public buildings, buildings which are open to the public including but 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 alcoholic 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 alcoholic beverages.

Restaurant: A reputable place licensed as a restaurant, operated by a responsible person of good reputation, in which a selection of food, refreshments, and alcoholic beverages are offered for sale for consumption within the building or adjacent outdoor seating areas. All areas of the restaurant shall comply with any applicable building code occupancy requirements. In order to be deemed a restaurant, the following criteria must be met:

- (a) The facility shall have a kitchen in which food is prepared for consumption by the public, which is separate and apart from the dining area, in which the food or meals are served. To meet the definition of "Restaurant," the establishment or facility shall serve at least one meal per day when open for business, which shall be for no less than five (5) days per week, with the exception of holidays,

vacations, and periods of repair, maintenance, or improvements.

- (b) The facility shall meet the minimum requirements for an Alabama Alcoholic Beverage Control Board on-premises license.
- (c) The dining area shall have adequate climate control, with the exception of any outdoor seating area(s), if such is authorized by the zoning Ordinance of the City of Henagar.
- (d) The serving of food or meals shall constitute the principal business of such establishment or constitute a substantial portion of the business, with the serving of alcoholic beverages being only an incidental part of the business, as defined as follows: During any ninety (90) day period, the gross receipts from the serving of meals and food shall constitute at least forty percent (40%) of the total gross receipts of the business. The licensee shall maintain separate cash register receipts, one for food and one for alcoholic beverages. In addition, the licensee 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 (3) 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 1:

A facility or establishment which meets the criteria of "Restaurant" above, and which meets the following additional requirements:

- (a) Total Dining area of greater than or equal to one thousand (1,000) square feet.
- (b) The dining area shall be equipped with tables and chairs accommodating equal to or greater than fifty (50) people at one time.
- (c) At least two (2) meals per day shall be served when open for business, which shall be no less than five (5) days a week, with the exception of holidays, vacations, and periods of repair, maintenance, or improvements.

Restaurant Class 2:

A facility or establishment which meets the requirements of "Restaurant" above, but which fails to meet the criteria of "Restaurant, Class I" as provided above, with the following exception: An establishment or facility that meets all of the requirements of a "Restaurant, Class II," and such establishment or facility is associated with a golf course (with no less than nine holes), public or private, such facility shall have no minimum meal per day requirement, and provided further that food sales in any ninety (90) day period shall equal a minimum of twenty percent (20%) of gross revenue of food and beverage operation. Alcoholic beverages may be sold on the golf course.

Retailer: Any person licensed by the board to engage in the retail sale of any alcoholic beverages to the consumer.

Sale or Sell: Any transfer of alcoholic beverages for consideration, and any gift in connection with, or as part of, a transfer or property other than alcoholic beverages for consideration.

School: A public or private elementary, intermediate, middle, junior high or senior high school.

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 diversified selection of domestic beer, imported beer, domestic wine, and imported wine. Where otherwise permitted by the Board, such establishments must apply and hold the following licenses:

(a) Retail table wine (license) for off-premises consumption,

(b) Retail beer license for off-premises consumption,

(c) Retail table wine license for on-premises consumption, and,

(d) 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 shall offer up to two tasting events per month of their product. With respect to these tastings, no alcohol shall be served free of charge.

Table Wine: Any wine containing not more than 16.5 percent alcohol by volume. Table wine is not liquor, spirituous or vinous.

Topless: The state of undress wherein a person is wearing no clothes above the waist, or where a person is exhibiting any portion of the nipple or areola, or where the person

is wearing clothing covering, in the case of females, less than twelve square inches of each breast.

Unopened container: A container containing alcoholic beverages, which has not been opened or unsealed subsequent to filing 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.

Article II: Control of Alcoholic Beverages

Section One: Location of Premises Near Church, School, or Child Care Facility

Subject to the exceptions contained in this section, no facility or establishment shall be authorized to be engaged in business involving alcoholic beverages, pursuant to any category of license where the building in which the facility or establishment is located is less than 300 feet from any building in which there is located a church, school, or child care facility. This distance restriction shall not apply in the following cases:

- (a) Where the church, school, or childcare facility was established after the licensed premises became licensed to be engaged in business involving alcohol and said operation has not been abandoned or discontinued for any reason for a period of twelve (12) months or longer.
- (b) Where the licensed premises is a grocery store as defined herein.

When measuring from a church, school, or day care facility, the distance herein set forth shall be measured from the main entrance of the establishment to the main entrance of the church, school, or childcare facility.

No business engaged in business involving alcoholic beverages shall be permitted unless in a Commercial, Agriculture or Industrial zone under the City's zoning ordinances.

Section Two: Maintenance of Order; Report of Violation

It shall be the duty of each licensee and of each person-in-charge at any time charged with the management and supervision of any licensed premises, while the same is 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 person in-charge of any licensed premises within the City to immediately make a verbal report to the City Police Department of each incident involving physical harm to a person occurring on the licensed premises while open for business. It shall further be the duty of each licensee to make a written report of each such incident to the Police Department of the City and to the local field office of the Board within thirty-six (36) hours thereof.

Section Three: Offenses in Public

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, right-of-ways, 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. As used in this section, the term "public place" shall mean and include any place or gathering which the public generally attends or is admitted to, either by invitation, common consent or right or by the payment of an admission or other charge, and, without limiting the generality of the foregoing, shall include public parks, city hall, library, school buildings auditoriums, any store or place where amusement and any high school athletic contest; provided, that such term shall not mean or include premises which have been duly licensed by the city as provided by the Code of Alabama, 1975.

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 guest to bring alcoholic beverages onto the licensed premises.

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.

Section Four: Minors, Drunkards, Insane Persons; Offenses by Seller or Agent

It shall be unlawful for any person or for any employee, servant or agent of any person to sell, or offer for sale, any liquor, wine or beer to any person visibly intoxicated, or to any insane person, to any minor, to any habitual drunkard or person of known intemperate habits.

It shall be unlawful for any person to serve to a minor or allow a minor to be served any liquor, beer, or wine in any place where such beverages are sold.

It shall be unlawful for any person who operates any business or selling liquor, beer or wine to allow any liquor, beer or wine to be sold to any minor, or to be consumed by any minor, on the premises where such liquor, beer or wine is sold.

Section Five: Same; Offenses Generally

It shall be unlawful to do or perform any of the acts or things designated as follows:

For any minor person, directly or indirectly, to purchase any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.

For any minor person to possess or to consume any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of said beverages.

For any person to sell furnish, give to or purchase for any minor person any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage, or to attempt to sell, furnish, give to or purchase for any minor person any of said beverages.

For any person to hire, employ or allow any person less than twenty-one (21) years of age to serve or dispense alcoholic beverages of any kind. However, this prohibition does not apply when the only license held by the licensee is an off-premises beer license or an off-premises table wine license or combination thereof, and provided there is an adult in attendance at all times. Provided further that persons who are nineteen (19) year of age or older and working as a waiter, waitress, or server may serve alcoholic beverages as provided in the preceding sentence shall be a licensee of the board who has been annually certified as a responsible vendor under the Alabama Responsible Vendor Act as provided in Chapter 10 (commencing with section 28-10-1) of title 28, Code of Alabama, 1975, as amended.

For any minor person, directly or indirectly, to falsely represent that such person is not a minor or is not under 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 malt or brewed beverages, any wine or liquor or any alcoholic or intoxicating beverages.

For any person, directly or indirectly, to falsely represent that a minor person is not a minor or is not twenty-one (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 malt or brewed beverage, any wine or liquor or any alcoholic or intoxicating beverages.

Section Six: False Representation

It shall be considered a false representation that a minor person is twenty-one (21)

years of age or older if the purchaser fails to disclose that the person making the purchase, obtaining, or securing such alcoholic beverage through the purchase has not reached the age of twenty-one (21) years.

Section Seven: Authorized Hours

It shall be unlawful for any person, whether an alcoholic beverage 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 alcoholic beverage for off premise (example: convenience/ gas stores, package stores, grocery stores, drug stores or any and all other type of retail establishment holding an alcohol license) consumption between the hours of 12:00 a.m. on Sunday morning and 12:00 a.m. on the following Monday morning unless otherwise provided by law. It shall be unlawful for any person, whether an alcoholic beverage 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 alcoholic beverage for on premise (example: club, restaurant, bar or lounge) consumption between the hours of 2:00 a.m. on Sunday morning and 12:00 a.m. on the following Monday morning unless otherwise provided by law.

Section Eight: Regulation of Conduct

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:

- (a) Topless or bottomless waitresses, waiters, dancers, servers, performers, or cashier or any lewd or indecent conduct.
- (b) Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (c) Acts, or simulated acts, of caressing or fondling of the breasts, buttocks, anus or genitals.
- (d) Acts involving the displaying of the anus, vulva or genitals.
- (e) 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.
- (f) Permitting the showing of films, still pictures, electronic reproductions or other visual reproductions depicting:
 - 1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

2. Any person being touched caressed or fondled on the breasts, buttocks, anus or genitals.
3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. 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.

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.

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.

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.

Section Nine: Records and Reports

It shall be the duty of each person subject to the license tax imposed by this ordinance 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 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 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 evidencing 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 one (1) year following each calendar year. All such records shall be available for inspection and audit at the licensed premises within the City during regular business hours by the City Clerk, or duly authorized representative, as requested. Failure to keep any of the records required by this section, or elsewhere in this ordinance, or refusal to make any records available to the City Clerk, or duly authorized representative, shall constitute grounds for revocation of any license issued under this ordinance. Further, an

annual report, under oath, shall be filed with the City Clerk, or duly authorized representative, in January each year, showing the purchases of the entire previous calendar year.

Section Ten: Packaging of Beverages

Retain licensees for off-premises sale of individual or packages of six (6) 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 license building used for alcoholic beverage sales.

Section Eleven: Delivery Vehicles

A manufacturer or wholesaler shall deliver any alcoholic beverages in vehicles bearing the required information on each side of the vehicle as required by the Board. (Title 28-3A.25-13).

Section Twelve: Open Containers

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

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 or while in any automobile or other motor vehicle on or along any public street, road or highway in the city except in the trunk or luggage compartment of a motor vehicle, or while in any other public place in the city.

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

Possess alcoholic beverages in an open glass, bottle, cup, can, keg, bag or other receptacle not its original container while upon or along any public street, road or highway in the city or while on 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.

The above notwithstanding this section shall not apply to any person that has in his or her possession alcoholic beverages in an open container in the passenger area of a motor vehicle of any kind on a public highway or right-of-way of a public highway as defined by Act No. 2000-670 duly adopted by the Alabama Legislature. State law shall govern in such situations.

Section Thirteen: 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.

Article III: Licenses

Section One: Alcohol License Tax Bond

It shall be the duty of each person subject to a license fee, privilege tax, or excise tax imposed by this article to deliver to the City a bond conditioned to promptly pay to said City all such amounts as are required to be paid to said city under the terms of this article, or any amendment hereto, and any other amount which may become due to the city for any licensee fee, privilege tax, or excise tax becoming due after the date of the bond. The amount of the bond shall be \$2,500.00 for each location of the person's business that is engaged in activity with respect to which a license or excise tax under this article is imposed.

With respect to those instances where the consent and approval of the City council is required with respect to the issuance of an alcoholic beverage license, such consent and approval will not be granted where the bond described in this section has not been delivered to the City Clerk. Moreover, where such a bond is required by this section, no privilege license shall be granted, renewed, maintained, or allowed to be transferred where the city clerk, or his or her authorized representative, has not received or does not hold a valid and binding bond as required by this section.

Said bond shall be posted in substantially the same manner and form as shown below:

City of Henagar
Alcohol Ordinance Tax or Fee Bond

That _____, hereinafter call Principal, and City of Henagar, Alabama, a municipal corporation, in the sum of _____, for the payment of which well and truly to be made we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing is such, however, that whereas, as one of the conditions precedent to the consent and approval of the City Council with respect to the issuance of any alcoholic beverage license, or to the granting, renewal, maintenance, transfer or allowance of a privilege license, the Principal is required to deliver to the City of Henagar, Alabama, a bond conditioned to promptly pay to said City all such amounts as are required to be paid to said City under the terms of the

Henagar Alcoholic Beverage Ordinance, or any amendment thereto, and any other amount which may become due to the City of Henagar, Alabama for any license fee, privilege tax, or excise tax imposed by said ordinance and becoming due after the date of the bond.

If the Surety shall so elect, this bond may be cancelled by providing notice through certified mail to the city clerk of the City of Henagar, or his designated representative. This notice shall provide for 30 days' notice to the City of Henagar and this bond shall be deemed cancelled at the expiration of said 30 days; the Surety remaining liable, however, subject to all the terms, conditions, and provisions of this bond, for any acts covered by this bond which may have been committed by the Principal up to the date of such cancellation.

In witness whereof, the said Principal and the said Surety have hereunto set their hands and seals at the City of Henagar, Alabama on this the ____ day of _____, 20____.

_____(Seal)
Principal

_____(Seal)
Surety

By _____(Seal)
Title _____

By _____(Seal)
Title _____

Section Two: Required; Transfer; Suspension; Display

It shall be unlawful, and considered a violation of this chapter, 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 board, a liquor license therefore. Licenses issued under this chapter may not be assigned or transferred. 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.

In the event of a change of ownership of a licensed establishment, the current licensee 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; and additionally, the party to whom the licensed establishment is to be sold must file with the city a complete application city license within 20 days of notification to the city of the intent to sell, transfer, or assign the establishment. 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.

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 or parties. 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 30 days if said applicant is in compliance with subsection (2) 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 a license is issued by the city in the new licensee's name.

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.

For the purposes of this section, and to assist in defining a substantial change in ownership, the sale or transfer of 25 percent or more of a corporation's stock shall constitute a substantial change in ownership of the licensee.

The city shall have the right to revoke any privilege license issued by the city for any violation of this chapter or the state alcoholic beverage control board rules and regulations, after notice and opportunity for a hearing before the city council.

Every privilege license issued by the city to conduct normal and routine business and license issued by the board shall be conspicuously and constantly exposed under a transparent substance in an area visible to the general public on the licensed premises.

Each person or business that changes its name shall provide to the City Clerk the new information within 30 days of the name change.

Section Three: Application for License; Payment

Each applicant seeking the consent and approval of the City Council for any license issued by the Board shall make application to the City Council as required by 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.

The Municipal License Application form, as provided by the City and shall be signed and verified by oath or affirmation by the owner, if a natural person, or in the case of a partnership, association, limited liability company, or unincorporated enterprise, by a partner or member thereof, or in the case of a corporation, by an executive officer thereof, and the form shall request the following information and statements:

- (a) The name and residence of the applicant and how long he or she has resided in the indicated place, and if a partnership, association, limited liability company, unincorporated enterprise, or corporation the names and residence address of the partners, members, officers and directors, and how long each of such persons has resided at the indicated place.
- (b) A description of the particular place for which the license is desired, which shall include the E911 address and legal description to the real property, and a description or plan of that part of the lounge where it is proposed to keep and sell liquor.
- (c) Place of birth of applicant, and, if a limited liability company or corporation, when and where formed or incorporated, and if not incorporated in the State of Alabama, then whether or not it is duly qualified under the laws of the State of Alabama to do business in Alabama. If a corporation, the application shall also contain a statement that all officers and directors of the corporation are reputable individuals.
- (d) The name(s) and addresses of the owner or owners of the premises upon which such business must be stated.
- (e) That applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed, except as stated, and that no other person shall be in any manner pecuniarily interested therein during the continuance of the license.
- (f) Whether applicant, or in the case of a partnership, association, limited liability company, or unincorporated enterprise, any partner or member thereof, or in case of a corporation, any officer, director or stockholder thereof, has during the three (3) years immediately preceding the date of said application, had a license for the sale of spirituous or vinous liquors, fortified wine or table wine, or malt or brewed

beverages, revoked or suspended by any governmental authority.

- (g) A statement whether applicant has made application heretofore for a similar or other liquor license, and the disposition of such application.
- (h) A statement showing the criminal records of the applicant, each partner, member, officer, member of the board of directors, landlord, and manager for the past preceding five (5) years, and shall include every violation charged irrespective of disposition of each charge. Minor traffic offenses may be omitted; however, driving under the influence, driving while intoxicated, and reckless driving cases must be shown.
- (i) In the event that the applicant is a publicly traded company or corporation, the information regarding board members, directors, stockholders shall not required be require provided the application otherwise meets the requirements and approval of the ABC Board.

The city clerk may, in his or her discretion, accept a copy of the applicant's application for a ABC board license, provided it contains substantially the same information as required above, as an addendum to the Municipal License Application form, if doing so reduces paperwork and expedites the application process. If accepted by the clerk, the applicant shall not be required to report information again in the Municipal License Application.

Each applicant for a club retail liquor license shall also file with, and as a part of, the application the following:

- (a) A certified copy of the certificate of incorporation, and of the constitution and bylaws of such club.
- (b) A verified list of the paid-up members of such club at the time of the application, together with the resident address of each such paid-up member.
- (c) The name and residence address of the manager of the club. If the person shown as manager of the club ceases to be such manager, then the club shall notify the clerk within five (5) days of such change, together with the names and resident address of any new manager.
- (d) A copy of any certificate from the Internal Revenue Service or Treasury Department concerning any exemption of the club from taxation.
- (e) Written evidence that applicant has obtained all required permits from the DeKalb County Department of Public Health and has fully met with the requirements of the fire prevention codes and ordinances of the city and of the laws of the State of Alabama, if applicable.

- (f) Written evidence, of the type and substance required by the Alabama Alcoholic Beverage Control Board and the Alabama Code and ABC Board Regulations, of the applicant's compliance with the Alabama Requirements mandate that the applicant have a sufficient net worth or, in the alternative, a sufficient policy of liability insurance to comply with said regulations as the same are in effect as of the date of the application.

Section Four: Review of Applications

The application shall be submitted to the City Clerk.

In the event of approval by the City Council, the City Clerk, or designated representative, shall be responsible for ensuring that written approvals of zoning, 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.

Subsequent to the City Council 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'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 DeKalb County.

Section Five: Public Notice

Upon receipt of an application, together with the results of the investigation and recommendations made thereon, if any be required, the City Clerk shall cause notice to be posted stating that the application, will be considered at the next regular meeting of the city council, which said notice must be posted as aforesaid at least six (6) days in advance of the next regular meeting of the city council, and further stating the time and place that same is to be considered and that such time and place all persons residing, having a business, or being interested with the same, shall have an opportunity of being heard in opposition to or in favor of the application. The notice shall contain the common E-911 address and legal description of the proposed establishment.

Section Six: Consideration of Application; Revocation

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

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

- (b) The character and reputation of the applicant, each partner, member, officer, member of board of directors, landlord, bartender and manager.
- (c) The criminal court records of the applicant, each partner member, officer, and member of the board of directors, landlord, bartender and manager.
- (d) 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 or places of business are within five hundred (500) feet of the property for which a liquor license is sought.
- (e) 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.

Section Seven: Application Fees

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 ordinance. Said the City shall retain 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 dollars (\$75.00).

Section Eight: License Fees and Taxes

Each person licensed by the ABC 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 and taxes as established below:

- (a) Beer wholesale license. Each person licensed as a beer wholesaler under section 28-3A-1 et seq. Of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state beer license by the State of Alabama. 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 the "Uniform Beer Tax Act," Acts 1982, No. 82-344. Wholesale beer dealers and distributors will not sell to any retail outlet that does not have a current city license.

- (b) Wine wholesaler license. Each person licensed by the ABC board as a wine wholesaler under section 28- 3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine license by the State of Alabama. 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," Acts 1980, No. 80-382. Wholesale wine dealers will not sell to any retail outlet that is not properly licensed by the City.
- (c) Beer and wine wholesale license. Each person licensed as a beer and wine wholesaler under section 28- 3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine and beer license by the State of Alabama. 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 the "Uniform Beer Tax Act," Acts 1982, No. 82-344. 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." Wholesale beer and wine dealers will not sell to any retail outlet that is not properly licensed by the City.
- (d) Warehouse License. Each person licensed by the ABC board to receive, store or warehouse alcoholic beverages within the state for transshipment inside and outside the state shall pay to the City an annual license fee of five hundred dollars (\$500.00).
- (e) Club retail liquor license. Each person licensed by the ABC board to operate a club, Class I or II, under section 28-3A-1 et seq. of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of one thousand five hundred dollars (\$1,500.00) if a Class I club, and two thousand dollars (\$2,000) for a Class II club. In addition, to said stated license fee, each person shall pay to the City, on or before the fifteenth (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 ten percent (10%) of wholesale cost of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.
- (f) Lounge retail liquor license. Each person licensed by the ABC board to operate a retail lounge under section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, 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 fifteenth (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 ten percent (10%) of wholesale cost of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.

- (g) Retail liquor for off-premises consumption. Each person licensed by the ABC board to operate a retail lounge under section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of one thousand five hundred dollars (\$1,500.00). In addition to said stated license fee, each person shall pay to the City, on or before the fifteenth (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 ten percent (10%) of the wholesale cost of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.
- (h) Restaurant retail liquor license. Each person licensed by the ABC board to sell alcoholic beverages in connection with the operation of a restaurant under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual privilege license fee of one thousand five hundred dollars (\$1,500.00). In addition to the stated license fee, each such person shall pay to the City, on or before the fifteenth (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 ten percent (10%) of the wholesale cost of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.
- (i) Retail table wine license for off-premises consumption. Each person licensed by the ABC board to sell table wine for off-premises consumption under section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine license by the State of Alabama.
- (j) Retail table wine license for on-premises and off-premises consumption. Each person licensed by the ABC board to sell table wine at retail for on-premises and off-premises consumption under section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state wine license by the State of Alabama, unless such person shall have paid for an on-premises liquor license.
- (k) Retail beer for on-premises and off-premises consumption. Each person licensed by the ABC board to sell beer for on-premises and off-premises consumption under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state beer license by the State of Alabama.

- (l) Retail beer for off-premises consumption. Each person licensed by the ABC board to sell beer for off- premises consumption under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of fifty percent (50%) of the amount charged for state beer license by the State of Alabama.
- (m) Special retail liquor license for on-premise consumption. Each person who has obtained a special retail liquor license from the ABC board under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City a license fee of two hundred fifty dollars (\$250.00) when the period of use is thirty (30) days or less. Such person shall pay to the City a license fee of three hundred fifty dollars (\$350.00) when the period of use is more than thirty (30) days. In addition to said stated license fee, each such person shall pay to the City percent (50%) of the amount charged for state wine license by the State of Alabama. In addition to the stated license fee, each such person shall pay to the City, on or before the fifteenth (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 ten percent (10%) of the wholesale cost of all alcoholic beverages, except beer and table wine, received during such immediate next preceding calendar month.
- (n) Special events retail license for on-premise consumption. Each person who has obtained a special events retail liquor license from the ABC board under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City a license fee of two hundred dollars (\$200.00). No such license shall be issued for a period in excess of seven (7) days. Such alcoholic beverages as are authorized by the ABC board may be sold. All applications for special event licenses shall be filed with the City Clerk at least sixty (60) 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 fifteenth (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 ten percent (10%) of the wholesale cost of all alcoholic beverages, except beer and table wine, received incidental to such special event.
- Hereunto, shall apply to applicant for a special event retail liquor license.
- (1) Submit the required filing fee.
 - (2) Receive approval from the city council; and
 - (3) Pay the required license fee.
 - (4) Each applicant/organization shall not be allowed to apply for more than five special event license in any one calendar year.
 - (5) No sale of alcohol shall be allowed to be sold during a special event on any Sunday after 2:00 AM.
 - (6) Shall be required to purchase the alcoholic beverages from a wholesale licensee of the ABC board.

- (o) Manufacturer license. Each person who has obtained a manufacturer license from the ABC board under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of three hundred fifty dollars (\$350.00).
- (p) Importer license. Each person who has obtained an importer license from the ABC board under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of three hundred fifty dollars (\$350.00).
- (q) Liquor wholesale license. Each person who has obtained a liquor wholesale license from the ABC board under Section 28-3A-1 et seq., of the Code of Alabama, 1975 as amended, shall pay to the City an annual license fee of seven hundred fifty dollars (\$750.00).

The stated annual license fee levied by the schedule under the foregoing provisions shall be due January 1st of each year and shall be delinquent after January 31st of the year for which such license is due, and a penalty of ten percent (10%) of the license amount shall be collected during February – March. In the event that a license fee has not been paid as of March 31st, the license shall be revoked. In addition, such person must pay a two hundred dollar (\$200.00) citation fee. The foregoing schedule of licenses shall be for the calendar year, and a full amount thereof shall be charged and collected, provided that where a new license is issued after July 1st, one-half (1/2) of the annual rate shall be charged and collected. There shall be no rebate 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 the fifteenth (15th) day of the calendar month specified in each levy and shall be delinquent if not reported and paid by such date.

Section Nine: Alabama Responsible Vendor Act

Section 28-10-1 through 28-10-8, Code of Alabama (1975) are hereby adopted by reference, and made a part of this chapter, as if fully set forth herein.

- (a) Each business requesting to sell alcoholic beverages within the city must obtain business certification through the state responsible vendor program within 60 days of license approval by the board.
- (b) Upon a business becoming de-certified from the state responsible vendor program, the city privilege license shall be suspended or revoked for a time no more than one year.

Article III: Violations; Punishments; General Provisions

Section One: Violations Declared Misdemeanors

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, unless otherwise provided herein, shall, upon conviction or adjudication of guilt, be punished by paying a fine not to exceed \$500 and being incarcerated for a period not to exceed six (6) months.

Section Two: Application of Municipal Code and Ordinances

Ordinances of the City of Henagar, Alabama, shall apply in all respects to any violations of this Ordinance.

Section Three: Severability

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

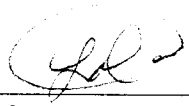
Section Four: Conflicts with State Statutes

This Ordinance shall be deemed cumulative with and supplemental to any and all statutes of the State of Alabama regarding the subject matter hereof and to be subordinate to same and in no manner intended to supersede any such 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.

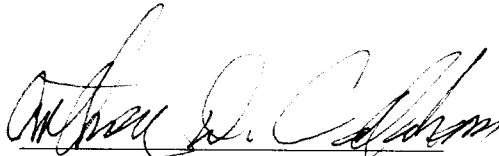
Section Five: Effective Date

This Ordinance shall become effective immediately in the entire City of Henagar upon certification by the City Clerk that the legalized sale of alcoholic beverages in the City has been authorized pursuant to provisions of the laws of the State of Alabama.

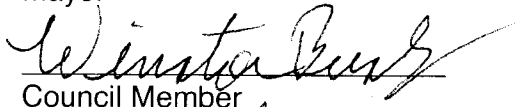
Whereas, said ordinance is adopted and approved this day, the 30 day of January, 2017.



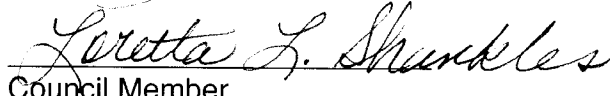
Mayor



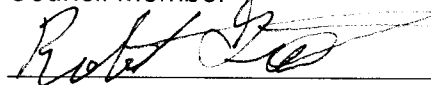
Council Member



Council Member

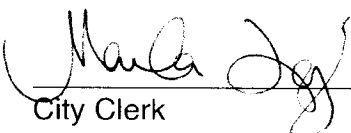


Council Member



Council Member

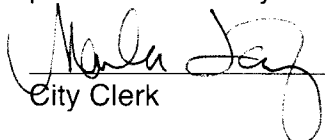
Council Member

Attest: 

City Clerk

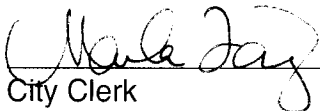
Certificate by Clerk

I certify that the foregoing ordinance number 2017-0101 was duly adopted by the City Council of the City of Henagar on the 30 day of January, 2017, and was duly posted at the City Hall, the City Police Station, and the Henagar Public Library on the 31 day of January, 2017. I further certify that a copy was posted on the City's website.



City Clerk

I certify that this is a true and correct copy of ordinance number 2017-0101 regarding the sale of alcohol in Henagar, Alabama.



City Clerk