

**ORDINANCE RELATING TO THE
RETAIL SALE OF BEER**

AMENDED THROUGH JULY 6, 1999

**ORDINANCE OF THE CITY OF FLOWOOD, MISSISSIPPI
RELATING TO THE RETAIL SALE OF BEER**

WHEREAS, the Mayor and Board of Aldermen of the City of Flowood, Mississippi received a petition requesting that the City hold an election for the purpose of allowing the sale of beer; and

WHEREAS, said petition contained more than twenty percent (20%) of the duly qualified electors of the City of Flowood, Mississippi and was otherwise in proper form; and

WHEREAS, the mayor and Board of Aldermen called for an election on the 27th day of August, 1991 in accordance with law; and

WHEREAS, at said election a majority of the qualified electors voted for the sale of beer.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMENT OF THE CITY OF FLOWOOD, MISSISSIPPI, as follows:

SECTION 1: SALES AUTHORIZED

(A) Subject to the provisions of this ordinance, the sale of beer of an alcohol content of not more than five percent (5%) by weight shall be allowed within the City limits of Flowood, Mississippi.

(B) Notwithstanding any of the other provisions of the Beer Ordinance, it shall not be unlawful for hotels which do not have restaurants to sell, give or furnish beer by the drink to guests of the hotel. Hotels shall be defined for the purpose of this provision as those establishments which are in the business of renting thirty (30) or more rooms for overnight occupancy and which provide complimentary hors d'oeuvres to guests. The serving of beer by hotels to guests shall only be permitted between the hours of 4:00 p.m. and 8:00 p.m., Monday through Saturday and beer shall not be served except to guests and employees of the hotel.

SECTION 2: PRIVILEGE LICENSE REQUIRED

Any person, partnership, firm or corporation desiring to engage in the business of selling beer at retail shall pay the city a privilege license tax at the same rate as that imposed by Section 27-71-303 and 27-71-34, 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 Flowood, Mississippi, an application showing that said person, partnership, firm, or corporation possesses all the requirements provided for in this ordinance. Further, said application shall present with the application a permit as required by Section 67-3-17 and 67-3-23, of the Mississippi privilege licenses shall be applied for and renewed annually. Said licenses shall be displayed conspicuously in licensees' place of business and shall not be transferable. It shall be unlawful for any person, partnership, firm or corporation to engage in the business of the retail sale of beer 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 licenses to engage in such business as aforesaid.

SECTION 3: APPLICATION REQUIRED

Any person, partnership or corporation desiring a license to sell beer at retail or desiring to renew such a license to sell beer shall file an application with the City Clerk and Tax Collector in the form of a sworn statement giving the address, the name of the business, its location, and if a partnership or firm, the name and address of each partner or member an, if a corporation, the names of two principal officers, the post office address and the nature of business in which engaged. In case any business is conducted by the same person, partnership, firm or corporation at two or more separate places, a separate license for each location 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 21 years of age an a person of good moral character, a citizen of the United States and in the State of Mississippi.

(B) Applicant shall not have been convicted in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution.

(C) Applicant shall not have been convicted in this or any other state within five (5) years preceding the date of his application of any 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 within said period of time.

(D) Applicant shall be the owner of the premises for which the permit is sought or the holder of a bona fide written lease thereupon.

(E) If applicant is a partnership or firm, all members of the partnership or firm must be named and shall be qualified to obtain a license.

(F) If applicant is a corporation, all officers an directors thereof, and any stockholder owning more than 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 stockholders 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.

SECTION 4: LOCATION TO BE IDENTIFIED

In addition to the foregoing 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 at such location, and no permit shall be granted to any person, firm, partnership, or corporation where it is apparent that church sanctuary, school main entrance, or kindergarten 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, school, or kindergarten, etc., than 500 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, school main entrance, or kindergarten. Such business may be located only in those areas zoned commercial according to the zoning map and ordinances of the City of Flowood, Mississippi, PROVIDED THAT, the area comprising the Municipal Golf Course shall be an allowed are regardless of zoning designation. The restriction as to the location of such business shall not apply is said premises has already been licensed under the terms of this ordinance prior to the construction or operation of any church, school, funeral home, or kindergarten.

REOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF FLOWOOD, MISSISSIPPI FINDIGN THAT SECTION 4 OF THE CITY OF FLOWOOD'S ORDINANCE REGULATING THE SALE OF BEER REGARDING THE PROHIBITION AGAINST LOCATION OF BUSINESSES SELLIGN BEER WITHIN 500 FEET OF ANY SCHOOL DOES NOT INCLUDE COLLEGE WITHIN THE DEFINITION OF SCHOOL.

SECTION 5: GENERAL RESTRICTIONS

It shall be unlawful for any person, partnership, firm, business, or corporation within the corporate limits of Flowood, Mississippi:

- (A) To sell beer 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 50% or more of its gross sales from the sale of groceries and if such a store or business does not derive 5% or more of gross sales from the sale of groceries, the said business or store shall not qualify for the sale of beer. In determining gross sales of groceries the sale of gasoline shall not be included.
- (B) To sell, dispense, or give beer to anyone before 5:00 o'clock a.m. or after 11:00 o'clock p.m.
- (C) To sell, dispense, or give beer to anyone at any time on Sunday or election days.
- (D) To sell, dispense, or give to anyone a quantity of beer of less than a four pack. (sale of kegs will be permitted).
- (E) To permit consumption of beer on the premises of the store or business establishment selling beer.
- (F) To sell, give, or furnish any beer to any person visibly or noticeable intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of 21 years.

(G) To permit on the premises of any place licensed to sell beer any lewd, immoral, or improper entertainment, or conduct or practices.

(H) To permit loud, boisterous or disorderly conduct of any kind upon the premises of any place licensed to sell beer or to permit the use of loud musical instruments if either or any of the same disturb the peace and quietude of the community wherein such business is located, or to operate pinball machines, pool tables or other coin operated amusement machines with the exception of juke boxes.

(I) To permit persons of ill repute, known criminals, prostitutes or minors to frequent said licenses premises, except minors accompanied by parents or guardians or under proper supervision.

(J) To permit or suffer gambling or the operation of games of chance upon the licensed premises.

(K) To throw, leave, or put a beer can or cans on the streets, avenues, and road of the City of Flowood, Mississippi, or to throw, leave, or put a beer can or cans upon the property of anyone except the person or persons possessing said can or cans.

(L) To receive, possess or sell on the premises any beverage of any kind or character containing more than five percent (5%) alcohol by weight.

(M) To sell, dispense, or give away beer without having paid the privilege tax to the City of Flowood, Mississippi, as provided by this ordinance.

(N) To sell beer to any person knowing that the person to whom the beer is sold is buying the same for a person under the age of 21 years.

(O) To serve beer from the place of business to a person or persons in a automobile or automobiles in the form of curb service.

(P) To work or employ anyone under 18 years of age in said place, business or establishment where beer is sold except under proper and constant supervision of the adult owner or owners or an adult employee or employees.

(Q) Notwithstanding any other provision of this ordinance, the sell and consumption of beer in the Municipal Golf Clubhouse and on the golf course shall be allowed subject only to State law limitations concerning days of sale, times of sale and other like restrictions, PROVIDED, HOWEVER, that no beer may be consumed on or transported to the Municipal Golf Course for consumption other than beer purchased at said Municipal Golf Course from the persons or companies licensed to sell same by the City.

SECTION 6: PARENTAL CONSENT/OTHER

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 with the consent of his parent or legal guardian in the presence of his parent or legal guardian, and it shall not be unlawful for the parent,

legal guardian or spouse of such person to furnish beer to such person who is at least eighteen (18) years of age.

A person who is at least eighteen (18) years of age and who is serving in the armed services of the United States may lawfully possess and consume beer on military property where the consumption of beer is allowed.

A person who is under twenty-one (21) years of age shall not be deemed to unlawfully possess or furnish beer, if in the scope of his employment such person:

- (a) Clears or buses tables that have glasses or other containers that contain or did contain beer;
- (b) Waits on tables by taking orders for beer; or
- (c) Stocks, bag or otherwise handles purchases of beer at a store.

SECTION 7: UNLAWFUL PURCHASES

It shall be unlawful for any retailer to possess for the purpose of sale, to sell, or offer to sell any beer which was not purchased from a wholesaler in this state who has a permit to sell such beer.

It shall be unlawful for any wholesaler to possess for purpose of sale, to sell, or offer to sell any beer which was not purchased from a manufacturer or importer of a foreign manufacturer authorized to sell such beer in this state.

SECTION 8: 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 sales being made by a licensed business being derived from the sale of groceries. 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 the business selling is not deriving 50% or more of gross sales for the sale of groceries. The failure to furnish said records to the Mayor and Board of Aldermen or to any designated employee of the City of Flowood 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 Flowood.

SECTION 9: CONSUMPTION RESTRICTIONS

It shall be unlawful for any person within the corporate limits of the City of Flowood, Mississippi to consume beer on the street, avenues, sidewalks, alleys, or publicly owned property, excluding the Municipal Golf Course. Further, no beer shall be consumed in automobiles either parked or while moving.

SECTION 10: AGE RESTRICTION

It shall be unlawful for any person within the corporate limits of the City of Flowood, Mississippi, to possess, give, buy or receive beer unless 21 years of age or older.

SECTION 11: PENALTY FOR VIOLATION

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

Any person, partnership, firm, or corporation violating any provision of this ordinance shall be fined not in excess of \$500.00 or imprisoned in jail for not in excess of six (6) months or be punished by both such fine and imprisonment and each and every violation shall be a separate offense and separate fines and imprisonment may be assessed for each offense.

SECTION 12: OTHER PENALTIES

Except as otherwise provided by Section 6, any person under the age of twenty-one (21) years who purchases or possesses any beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) and/or a sentence to not more than thirty (30) days community service.

Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) and/or a sentence to not more than thirty (30) days community service.

Except as otherwise provided by Section 6, any person who knowingly purchases beer for, or gives or makes available beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and/or a sentence to not more than thirty (30) days community service.

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 13: RESTAURANTS

Notwithstanding any of the other provisions of this ordinance, the sale of beer by the drink shall be lawful within restaurants and cafes. Restaurants and cafes shall be defined as those establishments which are in the business of preparing and serving food for consumption within the premises and who derive 75% of their gross receipts from the

sale of such prepared food. Such sales shall be permitted between the hours of 11:00 a.m. and 12:00 p.m. Monday through Saturday. No restaurants may serve beer outside an enclosed structure.

Notwithstanding any provisions of this ordinance, the sell and consumption of beer in the Municipal Golf Clubhouse and golf course premises shall be allowed regardless of the percentage of food served.

SECTION 14: OUTDOOR ADVERTISING

It shall be unlawful for any person, firm, partnership, or corporation licensed by the City of Flowood to sell beer, to advertise the sale of such beer by the use of any type of sign located outside the building or by the use of any type sign located within said building which is visible from the outside.

SECTION 15: EFFECTIVE DATE

This ordinance shall be effective October 11, 1991.

s/signed

Gary Rhoads, Mayor

ATTEST

S/signed

Myra Dew, City Clerk