

STATE OF ALABAMA)
)
MARSHALL COUNTY)

**AMENDED RESOLUTION OF THE MARSHALL COUNTY COMMISSION
REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE
UNINCORPORATED AREAS OF MARSHALL COUNTY, ALABAMA**

WHEREAS, the Marshall County Commission adopted the initial resolution regulating the sale of alcoholic beverages on October 23, 2024; and

WHEREAS, the citizens of Marshall County, Alabama voted on November 5, 2024, to authorize the sale and dispensing of alcoholic beverages within the unincorporated areas of Marshall County; and

WHEREAS, this second amendment and restatement is intended to replace and supersede the October 23, 2024 resolution and any versions thereafter until this date; and

WHEREAS, the Marshall County Commission desires that the sale of alcoholic beverages be regulated, and desires to establish certain administrative procedures for the regulation and licensing of vendors and/or retailers of alcoholic beverages, in the unincorporated areas of Marshall County, Alabama.

WHEREAS, the definitions used in this resolution shall be as follows:

1. Alcoholic Beverages – beer, malt beverages, Meade, wine, liquor, distilled or fermented liquids, intoxicating liquids, mixed drinks (such as cocktails), congealed substances (such as Jello shots) containing any of the aforementioned liquids.

2. Beer – fermented liquids with an alcohol level not more than 20 percent made primarily from grain or honey but may contain a small percentage of fruit or flavorings.

3. Liquor – distilled liquids with a proof level of 40 or greater made primarily from grain or other carbohydrate foods such as potatoes, etc. but may contain a small percentage of fruit or flavorings.

4. Wine – fermented liquids with an alcohol level not more than 20 percent made primarily from fruits.

5. Building – a roofed and walled structure built or set in place for permanent use, not a tent or other temporary structure.

6. Microbrewery – a commercial enterprise at a single location producing not more than fifty thousand (50,000) barrels per year and no less than fifty (50) barrels per year of beer as defined above.

7. Winery – a commercial enterprise manufacturing wine at a single location

8. Public place – any place or gathering location which the public generally attends or is admitted to, either by invitation, common consent, by right, or by the payment of an admission or other charge, and, without limiting the generality of the foregoing, shall include public parks, all County Courthouse facilities and Commissioner buildings, library, school buildings and auditoriums, any store or place where amusement and any high school athletic contest is normally conducted. This excludes premises which have been duly licensed for a Special Event by the County per this resolution.

9. Restaurant – a commercial business whose primary income is from cooking and serving food and non-alcoholic beverages from a kitchen to customers and patrons in a dining area within the building. This does not include the simple heating, cooking, or microwaving of pre-processed food such as pizza or hotdogs. It does not include serving ready-to-eat foods. It does not include restaurants whose primary food service is to-go. Restaurants must have a minimum of 50% of their sales from food.

10. Grocery Store – a commercial business whose primary income is from the sale of raw meat and produce, canned, boxed, and sealed bag edible or ready to cook foods, household paper and cleaning products. This does not include a gas station, bait shop, or other primarily non-food business that sells a few grocery type items.

NOW THEREFORE be it resolved that the Marshall County Commission, for the purposes, among others, of promoting the health and general welfare of the community, by establishing reasonable standards for the regulation and control of the licensing and sales of alcoholic beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable persons from engaging in or having any interest in the sale of alcoholic beverages, the Marshall County Commission, adopts the following:

1. This chapter shall be construed as an exercise by the County of the police power of the State delegated to the County in the regulation of traffic in alcoholic beverages within the unincorporated areas of Marshall County as provided by the Code of Alabama.

2. It is the judgement of the Marshall County Commission, as the representatives of the citizens of Marshall County, that alcoholic beverage sales within the unincorporated areas of Marshall County should be limited to the retail sales of alcoholic beverages in connection with the operation of a restaurant, manufacturer (microbrewery or winery), brewpub for off-premises consumption, and for special events retail license for on-premises consumption including beer and wine festivals and tastings.

3. It is the judgement of the Marshall County Commission, as the representatives of the citizens of Marshall County, that alcoholic beverage sales within the unincorporated areas of Marshall County should not be licensed to be sold in any adult entertainment venues.

4. In the furtherance of these finding, there is hereby created for the purpose of assisting and advising the County Commission in the proposing, subject to the limitations herein

of appropriate regulations for the issuance of licenses, the regulation of businesses engaged in the sale of alcoholic beverages, for the review of applications for County alcohol licenses, and inquiry and recommendation concerning complaints or disciplinary action of a County alcohol licensee, a committee to be known and designated as the County Alcohol Review Committee (the Committee).

a. The Committee shall be comprised of seven (7) members, to be composed as follows: Five (5) members appointed by the Marshall County Commission. The Marshall County Commission shall endeavor to appoint a board member from each of the four districts in the county. However, all appointments are made at large. The appointed term of these members shall initially be: one member for an initial one (1) year term, two members for an initial two (2) year term, and two members for an initial three (3) year term. Thereafter, each appointment shall be for a three (3) year term. Additionally, the Sheriff their designee and the County Administrator, or their designee, shall serve during their respective term in office.

b. The County Administrator, or designated representative, shall act as liaison to the County Commission on behalf of the committee.

c. The committee shall hold meetings as are necessary to consider requests by applicants for alcohol licenses, address matters of public concern, draft updates or changes to this Resolution and the licensing process and to present to the Commission, or make inquiry into the compliance of a current County alcohol licensee.

d. The review committee shall operate under bylaws created and approved by the County Commission.

e. The review committee shall recommend the annual cost of the different types of alcohol licenses. Additionally, the review committee shall recommend a Liquor Tax to be imposed on On-Premises sales per whole bottle sales and mixed drink sales. The committee shall recommend additional safeguards, such as surety bonds, to ensure approved license holders pay their required taxes and fees.

5. No action of the County Alcohol Review Committee shall be considered an official act of Marshall County, Alabama unless it is ratified by the Marshall County Commission.

6. Subject to exceptions contained in this section, no facility or property shall be authorized for on-premises sale or off-premises sale of alcoholic beverages where the building in which the premises are located is less than 200 feet from any building in which there is a church, or a public or private elementary, intermediate, middle, or junior high, high school, or child development facility. The aforesaid distance restrictions shall not apply in the following enumerated cases:

a. Where the church, school, or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 3 months or more

b. Where the County licensed premises is a grocery store as defined by the Commission at the time of issuance of their alcoholic beverage license.

c. Where the church or child development facility is in a shopping center.

d. Where the church, school, or child development facility is permitted and opens after a potential licensee has filed his application for a license with the County.

7. The reference point for distance measurements will be from the closest exterior wall of the closest building in the church, school, or child development facility complex wherein an essential function or activity of the church, school, or child development facility is carried on. The reference point for a potential County licensed premises shall be the closest point on the exterior wall of the building occupied by the licensee if the building is occupied solely by the licensee. Otherwise, such reference point shall be the closest point of the building the licensee will occupy within the building in question.

a. If an outdoor area adjacent to and directly connected/accessed from the licensee building is to be used by the licensee for the consumption of alcoholic beverages, such as a patio, it will be noted, with dimensions, on the license application and will be considered then the exterior wall of the building for measurement purposes.

b. The method of measurement is a straight line from the aforementioned defined points on licensed establishments to the aforementioned defined points on a church, school, or child development facility. The applicant shall identify all such distances within their license application.

c. The Marshall County Code Enforcement Officer or any other authorized official designated by the Commission shall verify such distances as appropriate.

8. It shall be unlawful for any licensed alcoholic beverage business as described in this resolution, whether operated as a sole proprietorship, partnership, limited liability entity, or corporation to:

a. sell, serve, dispense or give away, or attempt to sell, serve or give away, any alcoholic beverages, in the unincorporated area of Marshall County, Alabama, without first being issued a license by the Alabama ABC Board and the Marshall County Commission.

b. sell, serve or give away any alcoholic beverages while upon any street, alley, sidewalk, public easement, right-of-way, or parking lot designated 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 County.

c. allow, condone, or assist in the consumption of alcoholic beverage in their licensed premises not purchased from the same licensed premises at the time of consumption.

d. prevent private use on private premises, provided that in no event are illegal sales allowed

e. sell, or offer for sale, any alcoholic beverage for on or off premise

consumption to any person visibly intoxicated, or to any insane person, to any minor, to any habitual drunkard or to person of known intemperate habits.

f. allow or attempt to allow any alcoholic beverage to be sold, served, furnished, given, or provided to any minor, or to be consumed by any minor, at any licensed premise.

g. purchase any alcoholic beverages, or to attempt to purchase any of said beverages from any distributor, vender, salesperson, or other source not approved, licensed, authorized by the Alabama Beverage Control Board.

h. consume any alcoholic beverages, or to attempt to purchase any of said beverages while on duty employed in or at the alcoholic beverage licensed premise. This does not preclude the purchase of sealed alcoholic beverage products from their employer and take it off premise for personal consumption if authorized by the license assigned to the premise

i. hire, employ or allow any person less than 21 years of age to serve or dispense alcoholic beverages of any kind with the following exceptions:

- 1) This prohibition does not apply when the only license held by the licensee is an off-premises alcoholic beverage, microbrewery, or winery license or combination thereof, and provided there is an adult employee of the business is in attendance at all times.
- 2) Persons who are 19 years of age or older and working as a cashier, waiter, waitress, or server may serve, sell, or give away 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.

j. falsely represent that such person is not a minor or is not under 21 years of age, by means of which false representation such person buys, receives or otherwise obtains, or attempts to buy, receive or otherwise obtain any alcoholic beverage.

k. falsely represent that a minor person is not a minor or is not 21 years of age, by means of which false representation such person aids or abets or attempts to aid or abet, such minor person to buy, receive or otherwise obtain any alcoholic beverage.

l. sell, offer for sale, or to serve or dispense for offer or reward, or to offer to serve or dispense for reward any alcoholic beverage for off-premises consumption between the hours of 12:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 12:00 a.m. and 9:59 a.m. on Sunday.

- 1) These limiting hours or dates may be modified on a temporary basis for specific Special Events or holidays as decided by the Commission.

m. sell, offer for sale or to serve or dispense for offer or reward, or to offer to serve or dispense for reward any alcoholic beverage, for on-premises consumption or to allow the consumption of any alcoholic beverages on the licensed premises between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 2:00 a.m. to 9:59 a.m. on Sunday

- 1) These limiting hours or dates may be modified on a temporary basis for specific Special Events or holidays as decided by the Commission.

n. permit, allow, conduct or condone any of the following:

- i. Topless or bottomless waitresses, waiters, dancers, servers, performers, cashier, or other employees to have any lewd or indecent conduct.

- ii. Public sex acts, or simulated sex acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

- iii. Public acts, or simulated acts, of caressing or fondling of self or others of a sexual nature.

- iv. Acts involving the displaying of the anus, vulva, or genitals.

- v. Any "wet t-shirt" contest or other lewd showing or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola (darkened area surrounding the nipple), or the depiction of covered male or female genitals in a lewd or indecent manner by any waiter, waitress, employee, dancer, entertainer, employee, model, or customer

o. permit any patron, customer, or employee to touch, caress or fondle the breasts, buttocks, anus, genitals, or any part of the body or clothing of a performer or entertainer.

p. permit the showing of films, still pictures, electronic reproductions, or other visual reproductions depicting

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

ii. Any person being touched caressed or fondled on the breasts, buttocks, anus, or genitals.

iii. Scenes wherein a person displays the vulva or the anus or the genitals.

iv. 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.

q. allow 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 or guests while so employed and during the time that said establishment is open for business.

r. allow any person at the time employed or engaged on the licensed premises as an entertainer or performer, to also serve as a waiter or waitress while so employed.

9. In order to be issued a license for the sale of alcoholic beverages within the unincorporated areas of Marshall County, Alabama, all businesses, whether operated as a sole proprietorship, partnership, limited liability entity, or corporation, shall make application to the County Administrator or designee, on a form to be approved by the Marshall County Commission. Applications must be accompanied with a \$100 or \$150 non-refundable filing fee depending on advertising requirements. to cover the costs of processing and investigating each application. The \$100 filing/application fee is for applications not requiring a Public Hearing and \$150 filing/application fee is for applications requiring a Public Hearing. Applications may be for multiple licenses at a single location and still require only a single application fee.

10. The County Administrator or duly authorized representative shall not accept any application for any such license not accompanied by said payment to the County. The County shall retain the \$100 or \$150 filing fee to cover the expenses of processing and investigating said application, whether or not the application results in approval or denial.

11. Upon receipt of an application and fee, the County Administrator shall notify the Committee of the application and set a time for them to meet and investigate the merits of the application. When the investigation is completed, the applicant will be notified if the Committee recommends for or against granting an alcoholic license and the date and time when the Commission will consider the application for issuance of the requested alcoholic beverage license.

12. Before the Marshall County Commission issues a license, the County Administrator shall cause notice to be published in one of the three newspapers of general circulation within the County nearest to the area where the building is located, stating that the application will be considered at a specified, duly called Public Hearing of the County Commission.

a. The publication of said notice must be published as aforesaid at least four

days in advance of the specified meeting of the County Commission, and further stating the time and place that same is to be considered and that at such time and place all interested persons may appear at said meeting and be heard for or against the application..

b. Furthermore, the County Administrator shall post notice at the Marshall County Courthouse in Guntersville, Alabama, and include the information on its website and social media sites which shall be sufficient notice as required herein.

c. The County Administrator shall cause to be notified, by United States Mail, to the mailing address and the physical address (to the extent that the parcel has been assigned a 911 physical address) on file with the Marshall County Revenue Commissioner, to all residents, real property owners of record, and businesses adjacent to each property line, as determined by the Marshall County Revenue Commissioner Tax Map. The notice shall be considered provided upon the notice being placed in the United States Mail, property addressed, and postage prepaid, not less than six (6) days prior to the public hearing.

d. Special Events, including Festivals and Wholesalers, and Delivery services licenses are specifically exempt from the requirements of this section.

13. Prior to voting whether to issue the license, the County Commission must receive a written recommendation, after adequate investigation and inquiry, from the County Alcohol License Review Committee. Any recommendation factor must be grounded in the protection of the health, safety, and public welfare of the community. Thereafter, the County Commission shall then determine whether or not to issue a license to the applicant.

14. In rendering a decision on each application for a license under this chapter, the County Commission shall consider, among others, the following factors:

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

b. The character and reputation of the applicant, each partner, member, owner, officer, member of board of directors for companies and corporations owned within the State of Alabama and manager as appropriate.

c. The criminal court records of the applicant, each partner member, owner, officer, and member of the board of directors, and manager as appropriate.

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 500 feet of the property for which a liquor license is sought.

e. The compliance by applicant, each partner, member, owner, officer, member of the board of directors and manager as appropriate with the laws of the state and ordinances and resolutions of the County.

15. Subsequent to the County Commission approval, the County Administrator, or designated representative, is hereby authorized to indicate, and communicate in writing, the County's approval for the issuance of a license for the applicant to the State Alcoholic Beverage Control Board. The method for the communication of this approval by the County shall be determined based on the most current mechanism indicated as acceptable by the State Alcoholic Beverage Control Board field office supervisor responsible for the county.

a. In addition, a license may be approved by the County Commission but not be issued until such time as an acceptable life safety inspection is completed on the applicant's business location. Said inspection may be performed by an individual or agency designated by the Alcohol Review Committee or County Commission. A copy of such inspection will be included in the applicant's package and a copy may be provided to the applicant upon request.

16. Each business or person licensed by County Commission, shall not engage in alcoholic beverage business within the unincorporated areas of the County, prior to paying to the County, for the privilege of so engaging in business, an annual privilege business license fee and further license fees as established and as shall be established by subsequent resolution of the Marshall County Commission.

a. The cost of each type of alcoholic beverage license shall be recommended by the Committee and approved by the Commission as listed in the Alcoholic Beverage License Fee Schedule provided to each applicant by the Commission. Licenses are valid for one (1) year with an expiration date of September 30. Renewal applications will be accepted no earlier than August 1 for an annual license effective date of October 1.

b. Approved license fees will be prorated one-half of the full license fee for licenses issued on April 1 or later prior to the September expiration date. No annual license will be issued for any period unless it expires on September 30.

c. No Application Fee will be prorated.

17. The Alabama Responsible Vendor Action, 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 unincorporated areas of the County 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 County privilege license shall be suspended or revoked for a time no more than one year.

18. If any section, subsection, sentence, clause, phrase, or portion of this resolution is,

for any reason, held invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution. The Marshall County Commission hereby declares that it has adopted this resolution, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

19. The Marshall County Commission reserves the right to amend, modify, or repeal any provision of this resolution at any duly called meeting of the Commission. Such amendments shall be made in accordance with the procedures and requirements set forth by applicable law governing the operations of the Marshall County Commission. Any amendment or modification shall take effect immediately upon its adoption by the Commission, unless otherwise specified in the amendment itself.

Adopted this the 14th day of May 2025.

Absent
JAMES HUTCHESON, Chairman

ATTEST:

Ronny Sumate
RONNY SUMATE, District 1

Lee Sims
LEE SIMS, District 3

James R. Watson
JAMES R. WATSON, District 2

Joey Baker
JOEY BAKER, District 4, Vice Chairman