

ORDINANCE 2020- 043 - ADM

AN ORDINANCE AMENDING ORDINANCE 2019-009-ADM, WHICH IS CODIFIED IN ARTICLE II OF CHAPTER SIX OF THE CODE OF ORDINANCES OF THE CITY OF TRUSSVILLE, ALABAMA, TO FURTHER REQUIRE LICENSEES IN POSSESSION OF A LICENSE FROM THE ALCOHOL BEVERAGE CONTROL BOARD TO COMPLY WITH ALL REGULATIONS, RULES, AND ORDERS ISSUED BY THE ALCOHOL BEVERAGE CONTROL BOARD, PROVIDING FOR VIOLATIONS THEREOF, AND PERMITTING THE SALE OF ALCOHOL BEGINNING AT 10:00AM ON SUNDAYS.

WHEREAS, the City of Trussville, Alabama (“City”) enacted Ordinance 2019-009-ADM, the “Trussville Alcoholic Beverage Ordinance,” that provides for the City’s process in considering approval of an application for an alcohol license issued by the Alcohol Beverage Control Board (“ABC”) and requiring compliance with all federal, state, local laws, and all administrative orders and regulations issued by governmental entities; and

WHEREAS, section 28-3A-23(d) of the Code of Alabama (1975) requires municipal approval prior to any license being issued by the ABC Board; and

WHEREAS, section 28-3-2 and section 28-3-47 of the Code of Alabama (1975) grants the ABC authority to issue orders, regulations, and rules governing licensees; and

WHEREAS, in order to clarify within the Trussville Alcoholic Beverage Ordinance that a violation of orders, regulations, and rules issued by the ABC Board shall become a violation of the Code of Ordinances and subject the business and certain persons to punishment as provided herein; and

WHEREAS, Alabama Act 2017-444 authorizes the governing body of a municipality where Sunday sales of alcoholic beverages is permitted to authorize the sale of alcoholic beverages for on-premises consumption beginning at 10:00AM on Sundays; and

WHEREAS, constituents and business owners have requested the City to authorize alcohol sales beginning at 10:00AM on Sundays; and

WHEREAS, section 11-45-1 of the Code of Alabama (1975) authorizes municipal corporations to adopt ordinances, not inconsistent with state law, in order to effect and discharge the powers and duties of the municipality to provide for the safety, preservation of health, and to promote prosperity of its inhabitants.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, that section XII and XIII of Ordinance 2019-009-ADM, which is codified at section 6-42 and Section s-43 respectively of the Code of Ordinances of the City of Trussville, be and is hereby amended to state the following:

Sec. 6-42. - Duty by management of licensed premises.

As a condition to issuance and continuous maintenance of a license to sell alcoholic beverages:

- (1) A valid license issued by the Alabama Alcoholic Beverage Control Board must be maintained.
- (2) All alcohol license taxes shall be due monthly, to be remitted by the 20th calendar day of the month next succeeding the month of collection. Any alcohol license tax not paid timely shall subject the licensee to enforcement actions and penalties as prescribed in the Code of Ordinances.
- (3) It shall be the duty of each owner and of each manager or supervisor 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 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.
- (4) It shall be the duty of each owner and of each manager or supervisor at any time charged with the management and supervision of any licensed premises to ensure that a sign is posted in a prominent place in the premises that provides substantially as follows:

Any person purchasing alcoholic beverages may be required to provide documentary proof of age so as to ensure compliance with applicable law. Sale of alcoholic beverages may be refused to any person who fails to provide such proof upon request.
- (5) The licensee, an agent, a manager, and/or an employee shall be responsible for ensuring all orders, regulations, and rules issued by the Alabama Alcoholic Beverage Control Board are complied with and followed on and within the licensed premises.
- (6) Failure to comply with any of these provisions shall be considered a criminal violation of this ordinance, and upon conviction, shall subject the licensee, an agent, a manager, and/or an employee to punishment as provided in section 1-5 of the Code of Ordinances. This shall also subject the licensee to revocation of its City-issued business license as provided in Section 18-52 of the Code of Ordinances as well as any other penalty prescribed at law. Further, any violation of this ordinance may subject the licensee to have the City Council's approval of the licensee's alcohol license revoked. None of these remedies are exclusive, and the City, in its sole discretion, may pursue any of these remedies as well as any other remedy provided at law.

Section 6-43. Unlawful consumption and dispensing.

- (a) It shall be unlawful for any person to drink, sell, serve, dispense or give away or attempt to drink, sell, serve, dispense or give away any alcoholic beverages while upon any street, alley 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, school grounds, playgrounds, auditoriums, any store or place where merchandise of any kind is offered for sale, any theater or other place of amusement and any athletic contest or the premises upon which any said building is located; provided that such term shall not mean or include premises which have been duly licensed by the City for sale thereon of such beverages.

- (b) If any business shall have their license placed on hold, not be timely renewed, be suspended for a period of time or for any other reason not possess a valid ABC Board "active license", said business shall immediately remove all alcohol from the shelves in view of the public and shall cease to sell, serve, dispense or give away any alcoholic beverages or allow consumption on site beginning on the date the ABC Board deems the license invalid.
- (c) It shall be unlawful for any person or business to violate any order, regulation, or rule issued by the Alabama Alcoholic Beverage Control Board. Any violation of an order, regulation, or rule issued by the Alabama Alcoholic Beverage Control Board shall be considered a violation of this ordinance and shall subject the person to punishment as provided in section 1-5 of the Code of Ordinances. If a licensee, employee, owner, agent, or manager of a business that is in violation of an order, regulation, or rule, the violation subjects the business to revocation of its city issued business license as provided in section 18-52 of the Code of Ordinances, and/or revocation of the City Council's approval of issuing the alcohol license. These remedies shall not be construed as exclusive, and the City, in its sole discretion, may pursue any of these remedies as well as any other remedy provided at law.
- (d) This Section shall not apply to a church using wine for religious services.

BE IT FURTHER ORDINANED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, that the following, to be appropriately codified, be and is hereby enacted:

Section I. Hours of on-premises consumption and delivery.

(A) It shall be unlawful for any proprietor, owner, manager or any person in charge of any place of business which has been duly licensed to sell liquors, wines, malt, or brewed beverages to allow any person to consume or drink an alcoholic, malt or brewed beverage on his/her premises between the hours of 2:00 a.m. and 8:00 a.m. on any day except Sunday, and on Sunday between the hours of 2:00 a.m. and 10:00 a.m.

(B) It shall be unlawful for any person to consume or drink an alcoholic, malt or brewed beverage on the premises of any place of business which has been duly licensed for the sale of liquors, wines, malt or brewed beverages between the hours of 2:00 a.m. and 8:00 a.m. on any day except Sunday, and on Sunday between the hours of 2:00 a.m. and 10:00 a.m.

Section II. Enactment Provisions.

(A) Nothing contained within this ordinance shall be deemed to conflict or supersede any state or federal law presently enacted or which may come to be enacted after the ordinance's effective date.

(B) In the event any of these provisions are deemed unconstitutional or unenforceable, the remainder of the ordinance shall not be affected.

(C) This ordinance shall become effective upon its passage, approval, and publication as required by law.

ADOPTED this the 8TH day of DECEMBER, 2020.

ADOPTED:



ALAN TAYLOR
COUNCIL PRESIDENT

APPROVED:



BUDDY CHOAT
MAYOR

ATTEST:



DAN WEINRIB
CITY CLERK