

TOWN OF TISHOMINGO, MISSISSIPPI

AN ORDINANCE REGULATING THE SALE OF LIGHT
WINES OR BEER WITHIN THE MUNICIPAL LIMITS

WHEREAS, The Town of Tishomingo is authorized by MISS CODE ANN. §67-3-65 (1972 as amended), to adopt proper rules and regulations for fixing zones and territories, prescribing hours of opening and of closing, and for such other measures as will promote public health, morals, and safety, as to the sale of light wines or beer within the municipal limits of said municipality as well as designating territories therein where beer and light wines shall not be sold; and,

WHEREAS, the Mayor and Board of Alderman of the Town of Tishomingo, find it necessary to adopt an Ordinance pursuant to MISS CODE ANN. §67-3-65 (1972 as amended), to promote the public health, morals, and safety, of the community in the best interest of the Town and its citizens; and,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF TISHOMINGO, MISSISSIPPI, that the following be adopted as the Tishomingo Beer and Light Wine Ordinance:

It is hereby declared that the possession and sale of refrigerated light wines and beer is legal within the municipal limits of the Town of Tishomingo subject to the limitations contained in this Ordinance.

Section 1: Definitions

- A. As used in this Ordinance, the terms “person”, “consumer”, “retailer”, “wholesaler”, “commissioner”, “sale”, “light wines or beer”, and “distributor”, shall be defined and have the meanings prescribed to such terms in MISS CODE ANN. §27-71-301 (1972 as amended).
- B. As used in this Ordinance, the term “premises” shall be defined as the building and parking lot of any business selling light wines or beer.
- C. “Central Commercial Business District” shall be defined as the area historically considered commercial since the platting of the town in 1907 and is defined specifically as those lots in the Town of Tishomingo as per the official plat on file in the Chancery Clerks Office of Tishomingo County, Mississippi within: Blocks 1, 2, 11, 12, 13, 14, 23, 26, 35, and west half of Block 24; Lots 21 through 30 inclusive of Blocks 3, 10, 15, 22 and 27; Unplatted lots between Blocks 1 and 12 and railroad.
- D. “General Commercial District” shall be defined as the following areas along Highway 25 that have over the years gravitated to commercial use, or have the highest and best use being commercial, to wit: All property between West row of Highway 25 and the Railroad, South of Block 35 of the Town of Tishomingo; On the East side of Highway 25 from the South Line of Block 36 of the Town of Tishomingo to the intersection of County Road 101 within 300 feet of highway 25;

200 feet on East side of 25 from the South city limits up to a point approximately 450 feet North of the South City Limits; On the East side of Highway 25 Beginning 400 feet North of North Street and extending North to the City Limits within 400 feet of Highway 25.

- E. As used in this Ordinance, the term “open container” shall mean any container the contents of which are light wines or beer or alcohol beverage, is open, or which has been opened with any portion missing and resealed, but does not include empty containers.

Section 2: License

- A. No light wines or beer shall be sold within the municipal boundaries of the Town of Tishomingo unless the seller first obtains a retail permit for the sale of light wines or beer from the Mississippi State Tax Commission under MISS CODE ANN §67-3-27 (1972 as amended).
- B. Any person or entity desiring to engage in the business of selling light wines or beer shall, prior to engaging in advertising or sale thereof, first apply for and be granted a privilege license specifically for the sale of light wines or beer, and shall pay a privilege tax license fee to the Town of Tishomingo pursuant to MISS CODE ANN §27-71-345 (1972 as amended) in an amount equal to fifty percent (50%) of the tax imposed under MISS CODE ANN §27-71-303 (1972 as amended). The

application for privilege license shall be on a form prescribed by the city clerk and shall have attached thereto a sworn copy of the Application for Permit required by MISS CODE ANN §67-13-17 (1972 as amended), and a copy of the license issued by the Commissioner pursuant to MISS CODE ANN §27-71-27 (1972 as amended). The annual privilege license shall be valid one (1) year from date of issue.

Section 3. Restrictions

- A. Lawful light wines or beer sale hours are 7:00 a.m. to 12:00 midnight, Monday through Saturday. It shall be unlawful for any person to sell or distribute light wines or beer on Sunday, Christmas day, or between the hours of 12:00 midnight and 7:00 a.m. Monday through Saturday.
- B. The on-premises and off-premises retail sale of light wines and beer shall be limited to the Central Commercial Business District and the General Commercial District defined above.
- C. No light wines or beer sold for off-premises consumption shall be sold within 150 feet of any church, daycare, kindergarten, or funeral home or the boundary line of designated school or public park property.
- D. No light wines or beer sold for on-premises consumption shall be sold within 250 feet from the main building of any church, daycare, kindergarten, or funeral home or the boundary line of designated school or public park property.

E. It shall be unlawful for any retailer to allow on-premise consumption of light wines or beer except at a restaurant that has at least forty percent (40%) of its annual gross sales from preparing, cooking and serving food items, and not the sale of light wines and beer; also has a license and ABC permit issued by the Office of Alcohol Beverage Control of the Mississippi State Tax Commission for the on-premise retail sales and consumption of alcoholic beverages; and, meets the following requirements: table seating for 30 patrons. A menu that contains at least (5) separate entrees. Food items must be prepared in whole or in part on the premises. Food items that are merely heated and served or “ready-to-eat” without further preparation do not meet this requirement. Specialty or theme restaurants that specialize in one entree line may be exempted from this requirement so long as the entree line contains an acceptable number of theme or specialty entree variations. At a minimum, a Risk Category 2 Permit issued by the Mississippi State Department of Health, Proof of Permit is required for the initial application and all subsequent renewals. Employ at least one (1) employee with management or supervisory responsibility certified as a “food manager”, or an equivalent position, by an education program recognized by the Mississippi Department of Health. A kitchen that contains the following functional equipment: Oven and Stove top (can be one complete unit); cold storage areas (i.e., a refrigerator and freezer, either separate or combined); ventilation hood that meets applicable requirements under Mississippi State Department of Health regulations and city and/or local ordinances; adequate food preparation areas and countertop space; mop sink; three-compartment sink; and separate hand-washing facilities for

employees. All equipment must meet applicable standards as required by the Mississippi State Department of Health and as listed in the FDA Food Code. Menus must be readily available and visible to customers along with the dining hours of operation. Dining hours must be adequate to meet the requirements based on the business's individual food service plan. A minimum of forty percent (40%) of gross annual sales derived from the preparation and serving of food.

- F. It shall be unlawful to sell light wines or beer through a drive-in window or a drive through sales facility.
- G. It shall be unlawful for any light wines or beer to be sold for off-premises consumption in quantities less than said quantities are prepackaged for sale by the manufacturer.
- H. It shall be unlawful for any premises licensed for on-premises consumption to allow a patron to leave the exterior of the enclosed area of sale with either a full or partial container of light wines or beer.
- I. All retailers selling light wines or beer for off-premises consumption shall place the light wines or beer purchased in an opaque bag or sack before delivering same to the consumer; except for manufacturer package containers of twelve (12) or more individual products with a handle that, but for the handle, completely encloses the

product.¹

- J. It shall be unlawful for any on-premise or off-premise wholesalers, distributors, or retailers to store light wines and beer in the window or outside of the building or in such manner as to allow such product to be visible from the street.
- K. It shall be unlawful for any holder of an on-premise or off-premise license to sell light wines or beer to allow any lewd, immoral, excessively loud or improper entertainment, conduct or practices; or any loud, boisterous, or disorderly conduct, on the premises.
- L. No person or entity shall have both an on-premise retail license and an off-premise retail license within the municipal limits.
- M. It shall be unlawful for any person under the age of twenty-one years to purchase or attempt to purchase light wines or beer.
- N. It shall be unlawful for any person over the age of twenty-one years to sell, distribute, or otherwise provide light wines or beer to a person under the age of twenty-one years.

¹Amendment dated August 6, 2013.

- O. It shall be unlawful for any off-premise or on-premise retailer to advertise the sale of light wines or beer by means of banners or free standing temporary signs or neon, light emitting diode, or any other sign that uses individual lights or panel of lights for display.
- P. It shall be unlawful for any off-premise or on-premise retailer to advertise the sale of specific brands or manufacturers or prices of light wines or beer outside of the building where retail sales are made.
- Q. No on-premises retailer shall allow any person under the age of twenty-one years to serve light wines or beer to consumers.
- R. No off-premises retailer shall allow any person under the age of eighteen years to receive, stock, price or sell or bag light wines or beer.

Section 4. Penalties

- A. Any violation of this Ordinance shall be a misdemeanor and shall be punishable a fine of not more than One thousand dollars (\$1,000.00) or imprisonment in the county jail for not more than ninety (90) days, or both.
- B. Any violation of this ordinance by a person or entity holding a privilege license issued by the Town of Tishomingo for the sale of light wines or beer shall, in addition to the penalty set forth in Section 4A shall:

- i. Upon the first offense, may have the privilege license suspended for up to thirty (30) days.
- ii. Upon a violation of this ordinance for the second time within three hundred sixty-five (365) calendar days of the a prior offense, may have the privilege license suspended for up to one hundred eighty (180) days.
- iii. Upon a violation of this ordinance for the third time within three hundred sixty-five (365) days of two prior offenses, shall have the privilege license revoked and shall not be eligible to apply for another privilege license to sell light wines or beer for a period of two years from the date of revocation.

Section 5: Severability

The provisions of this Ordinance are severable and should any provision herein be declared invalid or unenforceable, the remaining provisions shall continue in full force and effect.

Section 6. Effective date

The distribution and sale of light wines or beer within the municipal limits of the Town of Tishomingo, Mississippi, shall become lawful on July 5, 2013, or upon the effective in force date by law of this ordinance, whichever is earlier.

The City Clerk is authorized and directed to make publication hereof as required by law.

Alderman Ann Taylor presented and moved for adoption of the foregoing Ordinance and Alderman Hal Southward seconded said motion and the Board Members voted as follows:

Anne Taylor Voted AYE

Hal Southward Voted AYE

Barbara Oaks Voted AYE

Gary Harlan Voted AYE

Doyle Hopkins Voted AYE

WHEREUPON, the Mayor declared the motion carried by unanimous vote and the Ordinance adopted, this the 4 day of June, 2013, at a regular meeting of the Mayor and Board of Aldermen .

James Tennyson, Mayor

Attest:

Paula Rushing, City Clerk