

**AN ORDINANCE ACKNOWLEDGING THE RESULTS OF THE
ELECTION ON THE LEGAL SALE OF LIQUOR AND ALCOHOLIC
BEVERAGES IN THE CITY OF RIPLEY, MISSISSIPPI AND
REGULATING THE SALE AND CONSUMPTION OF SAME**

WHEREAS, pursuant to state law the City of Ripley on August 13, 2013, held a special election to allow the voters within the municipality to determine whether to prohibit or permit the legal sale and the receipt, storage and transportation for the purpose of sale of liquor and alcoholic beverages pursuant to Mississippi Code Annotated §67-1-14.

WHEREAS, the final certified results of this special election were 843 votes, "For the legal sale of alcoholic liquors", and 697 votes "Against the legal sale of alcoholic liquors"; and

WHEREAS, §67-1-14 of the Mississippi Code of 1972 provides that upon a majority vote for the legal sale of alcoholic liquors "the municipal governing authorities" shall pass the necessary order permitting the legal sale of such alcoholic beverages in such municipality; and

WHEREAS, the City of Ripley finds and determines that it is in the public interest and will promote public health, morals and safety to provide reasonable rules and regulations governing the sale of alcoholic beverages.

WHEREAS, the City of Ripley Board of Aldermen at their regularly scheduled Board meeting was on the 3rd day of September, 2013, adopted an ordinance establishing the same.

THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF RIPLEY:

SECTION I: Definitions:

When used in the Ordinance:

- (1) Any term, word or phrase which is specifically defined by Section 65-1-5 of the Mississippi Code of 1972 shall be so defined in this section and is incorporated herein:
- (2) "Alcoholic beverage" for the purposes of this ordinance shall have the same definition as that provided by the Mississippi Department of Revenue (Alcohol Beverage Control) as currently exists or as is hereafter amended, modified, repealed or added.
- (3) "On-premises retailer permittee" means any person issued a permit authorizing the sale of alcoholic beverages, including native wines for consumption on the licensed premises only pursuant to Mississippi Code Section 67-1-51(1)(c). The term includes qualified hotels, restaurants, and clubs, common carriers and qualified resort area permittees.
- (4) "Package retailer permittee" means any person issued a permit authorizing such person to operate a store exclusively for the retail sale of sealed and unopened alcoholic beverages pursuant to Mississippi Code Section 67-1-51(1)(b).
- (5) "Licensed premises" shall mean the land, grounds and buildings used by any person, firm, corporation, or other entity in the operation of any business pursuant to this ordinance and as approved by the Mississippi Department of Revenue (Alcohol Beverage Control).
- (6) "Licensee" shall mean any person, firm or corporation or other entity who has been issued a license or permit by the State of Mississippi, which authorizes or permits the sale of alcoholic beverages for retail sales or on premises consumption, or the agents, servants, and employees of such firm, corporation or other entity.

- (7) “Open container” shall mean the container of an alcoholic beverage which has been opened so as to allow its contents to be consumed and shall include any container on which the seal has been broken, and to which a person has immediate access to and control over, even though the container may be closed by a top or other similar device. Immediate access to and control over shall mean within the reach of a person without substantial inconvenience.
- (8) “Permit” means any of the permits issued by the Department of Revenue of the State of Mississippi pursuant to Mississippi Code Section 67-1-51.
- (9) “Consume or consumption” shall mean any ingestion of alcoholic beverages or the possession of any type of drinking container or in any bottle, can or other container upon which the seal, cork or cap has been opened.
- (10) “Premises” shall mean the building in which the public or private commercial establishment is located and the land, parking lot and improvements connected thereto which are under the possession or control of the proprietor of such establishment.
- (11) “Permittee” shall refer to any holder of a state permit to sell alcoholic beverages.
- (12) “Commercial establishment” shall include any business or organization, public or private, which charges or accepts revenue for goods, membership or admittance, whether for profit or not for profit.

SECTION II: Incorporation of Laws, Rules and Regulations of the State of Mississippi including Rules and Regulations of the Mississippi Department of Revenue.

All state statutes, rules and regulations, including the Rules and Regulations of the Mississippi Department of Revenue now in force and as hereafter amended, modified, repealed or

added are incorporated herein by reference and shall govern the subject of alcoholic beverage control within the City of Ripley. Nothing contained in this Ordinance shall be deemed to overrule, limit or qualify state law, statutes, rules, or regulations, including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) except as specifically permitted by said law, statutes, rules and regulations. Any interpretation of this Ordinance which conflicts with any state law, statute, rule or regulation including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall be deemed to be superseded by state law, statute, rule or regulation. Any violation of state law, statute, rules or regulations, including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall constitute a violation of this Ordinance. Any and all penalties, punishments, etc. provided by state law, statute, rules and regulations including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall also be applicable to any violations of this Ordinance.

SECTION III: Sale, Possession of alcoholic beverages.

It is unlawful to sell, offer for sale, or otherwise dispense alcohol beverages or to possess alcoholic beverages in the City of Ripley in violation of any state law or any rule or regulation of the Mississippi Department of Revenue, including the sale of alcoholic beverages to minors, possession of alcoholic beverages by minors and the sale of alcoholic beverages within prohibited distances from churches, schools, kindergartens and funeral homes.

SECTION IV: False Statements by Minors.

It is unlawful in the City of Ripley for any person under the age of twenty-one (21) years of age to make a false statement to the effect that he or she is twenty-one (21) years of age or older for the purpose of purchasing or otherwise acquiring any alcoholic beverage or for the purpose of gaining admittance to any business, resort, entertainment venue or club in which alcoholic beverages

are being sold or furnished and in which persons under the age of twenty-one (21) years of age are not allowed by the owner, host or manager or pursuant to any state or local law or regulation.

SECTION V: Locations where possession prohibited.

It is unlawful in the City of Ripley for any person to have in his or her possession any alcoholic beverage or open container which would be in violation of any Ripley municipal ordinance, state law, statute, rule or regulation, including the Rules and Regulations of the Mississippi Department of Revenue (Alcoholic Beverage Control). However, to the extent there is a conflict with State law, rule or regulation, of the Mississippi Department of Revenue (Alcohol Beverage Control) then in such event the state law, the rule or regulation of the Mississippi Department of Revenue (Alcohol Beverage Control) shall prevail.

SECTION VI: Transportation for compensation prohibited.

It is unlawful in the City of Ripley for any person to transport or deliver any alcoholic beverage to another person for compensation of any kind except for transportation as permitted by state law, rule or regulation.

SECTION VII: Employment of persons under the age of twenty-one (21).

It is unlawful in the City of Ripley to employ in connection with the sale of alcoholic beverages a person under the age of twenty-one (21) for any employment from which they are prohibited by the Rules of Regulations of the Department of Revenue, in their present form and as hereinafter amended. Without limiting the generality of the foregoing Chapter 08 of Subpart 2 (Title 35) of the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall govern with respect to this subject.

SECTION VIII: Requirements for automatic and electronic liquor and wine dispensing

systems.

The installation, operation and use of automatic and electronic dispensing liquor and wine systems shall be permitted only as permitted by the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) as they currently exist or as hereafter amended, modified, repealed or added. Without limiting the generality of the foregoing Chapter 18 of Subpart 2 (Title 35) of the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall govern this subject.

SECTION IX: Permitted Premises where Alcoholic Beverages may be sold.

Alcoholic beverages may be sold only where specifically permitted by the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) as they currently exist or as hereafter amended, modified, repealed or added. Without limiting the generality of the foregoing, Chapter 03 of Subpart 2 (Title 35) of the Rules and Regulations of the Mississippi Department of Revenue (Alcoholic Beverage Control) shall govern permitted premises where alcoholic beverages may be sold.

SECTION X: Zoning and Building Code.

The zoning ordinance and building code of the City of Ripley shall apply to any store, business, operation, club, hotel, restaurant, or retail outlet where alcoholic beverages are sold and/or consumed; however, to the extent there is a conflict with State law, rule or regulation, of the Mississippi Department of Revenue (Alcohol Beverage Control) then in such event the state law, the rule or regulation of the Mississippi Department of Revenue (Alcohol Beverage Control) shall prevail.

SECTION XI: Hours and Days During Which Alcoholic Beverages May be Sold.

Alcoholic beverages may be sold only as specifically permitted by the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) as they currently exist or as hereafter amended, modified, repealed or added. Without limiting the generality of the foregoing, Chapter 04 of Subpart 2 (Title 35) of the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall govern hours and days during which alcoholic beverages may be sold.

SECTION XII: Prohibited Conduct and Activities.

Alcoholic beverages may be sold only as specifically permitted by the Rules and Regulations of the Mississippi Department of Revenue (Alcoholic Beverage Control) as they currently exist or as hereafter amended, modified, repealed or added. Without limiting the generality of the foregoing, Chapter 07 of Subpart 2 (Title 35) of the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall govern prohibited conduct and activities.

SECTION XIII: Open Container.

It shall be unlawful in the City of Ripley for any person to have in his or her possession an open container, in the following locations within the municipal boundaries of the City of Ripley:

- (a) on public property, including buildings, parking lots, sidewalks, streets and parks unless specifically approved by Order of the Board of Aldermen of the City of Ripley and/or allowed by state law and/or the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control); and
- (b) within a motor vehicle, regardless of whether the person in possession is an operator or a passenger of the motor vehicle unless specifically approved by state law and/or

the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control).

SECTION XIV: Lewd Entertainment.

It shall be unlawful in the City of Ripley for any retailer of alcoholic beverages to allow or permit within or on the business premises any conduct or activities prohibited by the Title 35, Part II, Subpart 2, Chapter 7 of the Mississippi Alcohol Beverage Control Regulations, including conduct which is lewd, immoral or offensive to public decency, as defined therein.

SECTION XV: Disturbance of the Peace.

It shall be unlawful in the City of Ripley for any retailer of alcoholic beverages to allow or permit loud and disorderly conduct on the business premises, including loud music, so as to disturb the community.

SECTION XVI: Enforcement.

The Ripley Police Department is hereby authorized, ordered and directed to enforce this article.

SECTION XVII: Penalties.

Without limiting any penalties provided by law, statute, rule or regulation, including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) and subject to any limitations with regard to penalties, punishments or otherwise, any person found to have violated this ordinance shall be subject to a fine not exceeding \$1,000.00 or imprisonment not exceeding 90 days or both. When a public or private commercial establishment is found to have violated this ordinance, a citation, subject to the above limits, may be issued to any of the following:

- (1) The officers, directors, members, managers or partners of a partnership, corporation, limited liability company or business entity which operates a public or private commercial establishment.
- (2) The permittee of any permit issued for the sale of alcoholic beverages.
- (3) The management personnel who are on the premises of the public or private commercial establishment at the time of the violation is found to have occurred.

SECTION XVIII: Limitation.

It is the intent of the City of Ripley that this Ordinance conform to all state statutes, rules and regulations now in force or as hereafter amended, repealed, modified or later created. Nothing in this article shall be construed as overruling or limiting the applicability of state laws, rules and jurisdiction. If any section or portion of this Ordinance is in conflict with any applicable state law, rule or regulation, then in that event that applicable state law, rule or regulation shall prevail, and the remainder of this ordinance shall remain in full force and effect.

SECTION XIX: Reserved.

This Ordinance shall become effective thirty (30) days after passage. The City Clerk shall cause the Ordinance or a summary of same to be published in a local newspaper with general circulation according to law. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This ordinance having first been reduced to writing as considered section by section and then as a whole, thereafter on a motion for adoption by Alderman ^{Jackie} McKenzie, seconded by Stephen Freeman, and after discussion, no Alderman member having called for a reading, was voted upon as follows:

Alderman Homer Richardson voted "Aye".
Alderman Jackie McKenzie voted "Aye".
Alderman Jon Grisham voted "Aye".
Alderman Joey Bryant voted "Aye".
Alderman Stephen Freeman voted "Aye".

NOW, THEREFORE, upon the unanimous vote of the Aldermen of the City of Ripley,
Mississippi, this Ordinance was adopted on this the 3rd day of September, 2013.

CITY OF RIPLEY, MISSISSIPPI

BY: Chris Marsalis
CHRIS MARSALIS, MAYOR

ATTEST:

Robin Vernon
ROBIN VERNON, CITY CLERK



BOARD OF ALDERMEN:

Joey Bryant
JOEY BRYANT

Homer Richardson
HOMER RICHARDSON

Jon Grisham
JON GRISHAM

Jackie McKenzie
JACKIE MCKENZIE

Stephen Freeman
STEPHEN FREEMAN

