

**AN ORDINANCE REGULATING THE POSSESSION AND CONSUMPTION  
OF ALCOHOLIC BEVERAGES, WINE, AND BEER AT PUBLIC AND  
PRIVATE COMMERCIAL ESTABLISHMENTS**

WHEREAS, the Board of Supervisors of Clay County, Mississippi, is empowered to adopt any orders, resolutions, or ordinances with respect to the care, management and control of county affairs and its property and finances for which no provision has been made by general law and which is not inconsistent with existing law pursuant to Section 19-3-40 of the Mississippi Code Annotated (1972); and

WHEREAS, counties are authorized to make proper rules and regulations and are empowered to prescribe hours for the opening and closing of establishments serving beer and light wines and for such other measures as will promote public health, morals and safety, pursuant to Section 67-3-65 of the Mississippi Code Annotated (1972); and

WHEREAS, the Mississippi Legislature has recognized the danger of unlimited consumption of light wine and beer to public health in Section 67-3-53 of the Mississippi Code Annotated (1972) which prohibits the sale or giving away of beer or wine between the hours of 12:00 midnight and 7:00 a.m. upon any licensed premise or during any time which the licensed premise may be closed by Ordinance, except for resort areas; and

WHEREAS, the Alcoholic Beverage Control Division of the Mississippi State Tax Commission also has recognized the danger of unlimited consumption of alcoholic beverages to the public health in the adoption of Regulation No. 12 and Regulation No. 13, which regulations provide that no on-premises permittee shall sell or allow consumption of alcoholic beverages inside the hours of 12:00 midnight and 10:00 a.m. unless otherwise allowed by law; and

WHEREAS, having investigated, studied and discussed the matter, the Board of Supervisors finds as follows:

A. The consumption of alcoholic beverages, wine and beer in public and private commercial establishments increases the likelihood, danger and severity of motor vehicular accidents, public disturbances and malicious mischief if consumption is

allowed to continue without a time restraint;

B. Holders of on-premises permits for retail sale of alcoholic beverages, wine and beer are prohibited from selling or permitting the consumption on the premises of the same after 1:00 a.m. or as provided by Ordinance;

C. Nevertheless, consumption of alcoholic beverages, wine and beer is continuing at other public and private establishments, thereby unreasonably endangering the public health, morals, safety and welfare;

D. There is no rational or reasonable basis for prohibiting sale and consumption on the premises of on-premises permittees after the prescribed hour, but allowing consumption without time restraints at other public and private commercial establishments;

E. Minors are frequenting public and private commercial establishments where alcoholic beverages, wine and beer are being consumed after the prescribed hour;

F. The consumption of alcoholic beverages, wine and beer at public and private commercial establishments between the hours of 1:00 a.m. and 7:00 a.m. is a present danger to the public health, morals, safety and welfare, as stated herein;

G. The closing all public and private commercial establishments heretofore allowing the consumption of alcoholic beverages, wine and beer after 1:00 a.m. is necessary to rationally and reasonably address the danger to the public health, morals, safety and welfare, and regulation of the hours during which alcoholic beverages, wine and beer may be consumed in public and private commercial establishments is reasonably related to the promotion of the public health, morals, safety and welfare and is not oppressive, arbitrary or discriminatory.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of Supervisors of Clay County, Mississippi, as follows:

**Section 1. Title.** This Ordinance may be referred to as the "Clay County, Mississippi Brown Bag Ordinance."

**Section 2. Definitions.** For the purposes of this Ordinance, the following definitions shall apply:

(a) "Alcoholic beverage" shall mean any intoxicating,

alcoholic liquid as defined by Section 67-1-5 of the Mississippi Code Annotated (1972) and wines and beer as those terms are used in Section 67-3-1, et. seq. of the Mississippi Code Annotated (1972).

(b) "Consume" or "consumption" shall mean any ingestion of alcoholic beverages or the possession of any alcoholic beverages in any type of drinking container or in any bottle, can or other container upon which the seal, cork or cap has been opened.

(c) "Premises" shall mean the building in which the public or private commercial establishment is located and the land, parking lot and improvements connected with or serving such establishment, which land, parking lot and improvements are under the possession or control of the proprietor of such establishment.

(d) "Public or private commercial establishment" shall mean any store, restaurant, bar, lounge, club, lodge, fraternal order meeting place, or any other business, whether for profit or not for profit, and whether or not said business is a holder of a permit issued by the Alcoholic Beverage Control Division of the Mississippi State Tax Commission or a beer privilege license from the City of West Point, which charges or accepts revenue of any type in exchange for goods, sources, membership or admittance.

(e) "Store" or "storage" shall mean to accept, hold, refrigerate, mix, pour or receive any alcoholic beverage or container thereof not owned or sold by the proprietor or a public or private commercial establishment as defined herein.

**Section 3. Hours of Consumption.** No person, partnership, or corporation, nor any agent or employee thereof, operating a public or private commercial establishment shall permit the consumption of alcoholic beverages on the premises of such establishment between the hours of 1:00 a.m. and 7:00 a.m., provided, however, that nothing in this section shall be construed to permit the sale, distribution, giving away, or storage of alcoholic beverages at any time on Sunday, unless otherwise permitted by the laws of the State of Mississippi or the Ordinances of Clay County, Mississippi.

**Section 4. Storage.** No person, partnership, corporation or employer or agent thereof, which operates a public or private commercial establishment shall store any alcoholic beverage not

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owned by said person, partnership or corporation between the hours of 1:00 a.m. and 7:00 a.m., unless otherwise permitted by the laws of the State of Mississippi or the Ordinance of Clay County, Mississippi; provided, however, that nothing in this section shall be construed to permit the sale, distribution, giving away, or storage of alcoholic beverages at any time on Sunday, unless otherwise permitted by the laws of the State of Mississippi or the Ordinances of Clay County, Mississippi.

**Section 5. Penalties.** Any person or entity which shall be found to have violated this Ordinance shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00), or imprisonment not exceeding ninety (90) days, or both.

**Section 6. Limitation.** Nothing in this Ordinance shall be construed to authorize, legalize, protect or condone the sale, distribution, possession, storage, consumption or giving away of any alcoholic beverages which is otherwise prohibited or regulated by laws or Ordinance which is controlled or not permitted by the owner or proprietor of any public or private commercial establishment.

**Section 7. Enforcement.** The Clay County Sheriff's Department is hereby authorized, ordered and directed to enforce this Ordinance.

**Section 8. Severability.** In the event that any portion of this Ordinance is ruled invalid by a court of competent jurisdiction, the remainder of the Ordinance shall remain in full force and effect.

**Section 9. Effective Date.** This Ordinance shall be effective from and after 11:59 p.m. on the thirtieth (30th) day after the adoption thereof.

The foregoing Ordinance having been first reduced to writing, was introduced by Supervisor Darrell Myers, who moved its adoption. It was seconded by Supervisor Shelton Deane.

The foregoing Ordinance was considered and voted upon by sections and as a whole; the vote on each and all of the sections, and upon the Ordinance as an entirety, was taken by "Yea" and "Nay"

vote with the following results:

Supervisor Shelton Deanes voted

Supervisor Albert Donald, Jr. voted

Supervisor Luke Lummus voted

Supervisor Darrell Myers voted

Supervisor David Winfield voted

yes  
yes  
yes  
yes  
yes

The motion having received the affirmative vote of the Board members present, the President declared the motion carried and the Ordinance adopted.

ADOPTED, APPROVED AND PASSED this the 24<sup>th</sup> day of

April, 1997.

David Winfield  
DAVID WINFIELD, PRESIDENT

ATTEST:

Harmon A. Robinson  
HARMON A. ROBINSON, CLERK

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NO. \_\_\_\_\_

IN THE MATTER OF AMENDING THE ORDINANCE  
REGULATING THE POSSESSION AND CONSUMPTION  
OF ALCOHOLIC BEVERAGES, WINE, AND BEER AT  
PUBLIC AND PRIVATE COMMERCIAL ESTABLISHMENTS

The matter of amending the County Ordinance of April 24, 1997, regulating the possession and consumption of alcoholic beverages, wine and beer came on for discussion by the Board of Supervisors of Clay County, Mississippi, and after a thorough discussion of same, Supervisor \_\_\_\_\_

Warfield offered the following amendment to said ordinance:

That Section 3 of the above said ordinance should be amended to read as follows:

“Section 3. Hours of Consumption. No person, partnership, or corporation, nor any agent or employee thereof, operating a public or private commercial establishment shall permit the consumption of alcoholic beverages on the premises of such establishment between the hours of 1:00 a.m. and 7:00 a.m. The hours of sale, distribution, or giving away of wine and beer are regulated as specified in the ordinance adopted by the Board on February 3, 1992.”

That Section 4 of the above said ordinance should be amended to read as follows:

“Section 4. Storage. No person, partnership, corporation or employee or agent thereof, which operates a public or private commercial establishment shall store any alcoholic beverage not owned by said person, partnership, or corporation between the hours of 1:00 a.m. and 7:00 a.m.. The hours of sale, distribution, or giving away of alcoholic beverages are regulated as specified in the ordinance adopted by the Board on February 3, 1992.”

The effective date of this amendment shall be from and after passage.

The motion was seconded by Supervisor Lummas and was put to a roll

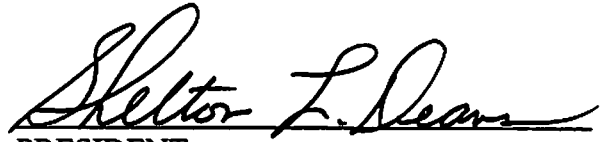
call vote, with the following result:

|                                |        |   |
|--------------------------------|--------|---|
| Supervisor Albert Donald voted | yea    | ” |
| Supervisor Luke Lummas voted   | yea    | ” |
| Supervisor Darrell Myers voted | absent | ” |

Supervisor Shelton Deanes voted      *yea*      ”

Supervisor David Winfield voted      *yea*      ”

The motion having received the affirmative vote of the majority of the Board, the President declared the motion carried and the ordinance amended on this the 22<sup>nd</sup> day of February, 2001.

  
PRESIDENT

  
CLERK