

PROPOSED AMENDMENTS TO LOWNDE'S  
ALCOHOLIC BEVERAGES ORDINANCE -- CHAPTER 5.1

Add the following, to be designated as

1. Section 5-6 -- Leasing of property for a gathering at which alcoholic beverages will be consumed.

If any owner of an interest in property (the property owner) shall lease, rent, or otherwise temporarily convey for profit that property (the premises or the property) to any individual, group, business entity, organization or other association (the lessee), for the purpose of a gathering of 40 or more people at which beer, light wine, and/or alcoholic beverages are consumed (an event), then the property owner must apply for a permit (an event permit) from the city five days in advance of the event and pay an application fee of \$75.00. The property owner must apply for an event permit and pay the application fee for each event. The application will be reviewed by the city police department and may be denied on the basis of prior criminal convictions of either the property owner or the lessee. If the application is denied, the \$75.00 application fee will be refunded. Furthermore, upon request, the city may waive the application fee if the city makes a determination that the primary purpose of the event will directly benefit the city.

- (1) Any property owner applying for an event permit under this section must supply, at minimum, the following information: property owner's name, residential address and telephone number; the location of the premises; the name of the lessee; the name of an individual (either the property owner, the lessee, or an agent of either the property owner or the lessee) who shall be present on the premises for the duration of the event and who shall be responsible for conduct of the lessee and the lessee's guests on the premises, the date and time of the event, the number of expected guests and the type of entertainment planned (i.e.. live music, disc jockey. etc.).
- (2) If beer, light wine, and/or alcoholic beverages are present in any type of drinking container or in any bottle, can or other container upon which the seal, cork or cap has been opened ("an open container"), on premises that are leased for an event and the property owner has not obtained an event permit under this section, then the property owner shall be in violation of this section. The property owner shall be strictly liable for the failure to apply for an event permit under this section and it shall be no defense that the property owner was unaware that beer, light wine, and/or alcoholic beverages would be consumed or would be present on the premises in open containers.
- (3) This section does not apply to establishments which allow the consumption or sale of beer, light wine, and/or alcoholic beverages under the authority of any other state law or local code.
- (4) If beer, light wine and/or alcoholic beverages are to be sold at any event held under this section, the lessee must either hold a valid liquor license issued by the State of Mississippi (for the sale of alcohol other than light

wine or beer) or a valid beer license issued by the City or be a 501(c)(3) charitable organization or bona fide not for profit entity.

- (5) The property owner who leases property for an event shall comply with all state laws and local codes that govern the operation of an establishment which has an on-premises retailer's permit issued by the alcoholic beverage control division, including, but not limited to, chapters governing the hours of operation, the consumption of alcohol by minors, the presence of minors on the premises, entertainment, the conduct of patrons, and any disturbance of the peace. In addition to complying with all applicable chapters pertaining to on-premises retailers, no person may possess any beer, light wine, or alcoholic beverage in an open container, upon the premises permitted under this section (including the land, buildings, parking lot or other improvement under the possession or control of the property owner) except during the hours that establishments with on-premises retailer's permits are allowed to sell beer, light wine, or alcoholic beverages. Outside of the hours that establishments with on-premises retailer's permits are allowed to sell beer, light wine, or alcoholic beverages, no open container may be stored upon premises permitted under this section unless the open container is the personal property of the property owner and its contents are not for consumption by the lessee or by the lessee's guests. When property is permitted for an event under this section, the city may hold either the property owner and/or the lessee liable for a violation of this chapter and/or for a violation of any state law or local code governing the operation of an establishment which has an on-premises retailer's permit issued by the alcohol beverage control division. This section in no way limits or abrogates any other chapter.
- (6) Any person violating the provisions of this section shall be guilty of a misdemeanor and may be fined not exceeding a sum of \$500.00 for the first offense, or \$1,000.00 for any subsequent offense, and/or sentenced to serve up to 90 days in jail for the first offense, or up to six months for any subsequent offense. Furthermore, the property owner may lose the right to apply for an event permit under this chapter for up to six months for the first offense and up to a period of one year for any subsequent violation.

2. Section 5-25 -- Beer and light wine privilege license.

- (a) *Privilege license required.* Any person or entity desiring to engage in the business of selling beer and light wine at retail shall pay the city a privilege license tax in the amount as that imposed by MCA 1972, §§27-71-303, 27-71-345, and 67-3-27 for the purpose of engaging in such business and shall file with the city clerk an application showing that such person possesses all the requirements provided for in this article. Such applicants shall exhibit a permit as required by MCA 1972, §§67-3-17 and 67-3-23. All such city privilege licenses shall be applied for and renewed annually. It shall be unlawful for any person to engage in the business of the retail sale of beer and light wine without having first applied for and obtained from the city clerk a privilege license to engage in such business.

- (b) *Application for privilege license.* Any person or entity desiring a license to sell beer at retail or desiring to renew such a license to sell beer and/or light wine shall file an application with the city clerk in the form of a sworn statement giving the name of the business, its location, the mailing address, and if a partnership or firm, the name and address of each partner or member and, if a corporation, the names of two principal officers and the nature of business in which engaged. In case any business is conducted by the same person or entity at two or more separate places, a separate license for each place of business shall be required. The applicant shall further show in the sworn application for a license that the applicant and/or its principals (as identified below) possess the following qualification:
- (1) Over 21 years of age and a person of good moral character;
  - (2) No convictions in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution; and
  - (3) No revocation of any license or permit to sell alcoholic liquors, beer, or light wine, pursuant to the laws of this city, this state or any other state, or of the United States, within two years preceding the date of application.

If the applicant is a partnership, firm or limited liability company, all members of the partnership, firm, or limited liability company must be named and must meet the above-listed qualifications. If the applicant is a corporation, all officers and directors thereof, and any stockholder owning more than five percent of the stock of such corporation, and the person who shall conduct and maintain the licensed premises for the corporation shall possess all the qualifications required herein for an individual license.

- (c) *False statements.* Discovery of any false statement made on the application or during the application process shall be grounds for immediate revocation of the privilege license. The licensee shall retain a list of all persons employed by the licensee who sell and/or serve beer and/or light wine, including with the list the name, address and age of each such employee, and such list shall be made available upon request of municipal authorities.
- (d) *Compliance Representative.* As a condition precedent to the issuance of a privilege license, the licensee must agree to appoint a compliance representative, who shall apply for a compliance representative permit with the city clerk. Each applicant must meet the following requirements in order to receive a permit.
- (1) Must be 21 years of age or older.
  - (2) Must agree to complete within two months of the date of the application a required training course, for a fee to be set by the city police department, to be conducted by the city police department pursuant to the training guidelines of the state alcoholic beverage commission.
- (e) *Compliance representative permit time limit.* Each compliance representative permit shall be issued for a period of one year, which can be

renewed for the following two years with no additional requirements, if neither the privilege licensee nor the compliance representative is convicted of a violation of the provisions of this chapter during the year.

- (f) *Necessity for new compliance representative.* If the permitted compliance representative is either no longer employed by the privilege licensee or has his compliance representative permit revoked, then the licensee must appoint a new representative who must meet the requirements of this section.
- (g) *Optional training of employees.* Although only the compliance representative of each licensee shall be required to attend the training course conducted by the city police department, said training course shall be made available to all who wish to attend, subject to payment of the registration fee for the same, and all privilege licensees are encouraged to offer such training to their employees.
- (h) *Nonretail sale or distribution of beer and/or light wine.* Each wholesaler or distributor of light wine or beer and each person or entity engaged in the business of brewing, manufacturing, or producing beer or light wine shall comply with the requirements of section 5-27 in order to obtain a privilege license to engage in such business within the city.

3. Section 5-26 -- Permit and/or license required.

- (a) *Business premises.* It is unlawful for any person to sell, give or dispense or permit to be consumed or possessed in or upon any premises operated as a business for profit, any alcoholic beverage, light wine, or beer without first having secured a permit and/or license authorizing the sale of such alcoholic beverage, light wine, or beer at retail.
  - (1) The premises described in subsection (a) of this section and secured by a permit and/or license shall be defined as the premises approved by the alcoholic beverage control division of the state tax commission. A copy of said approved premises (floor plan) shall be filed with the chief of police; provided, further, it shall be unlawful for any person to consume alcoholic beverages, light wine or beer outside of the approved premises of the business holding a permit and/or license.
  - (2) Any premises operated as a business for profit shall not include a clubhouse, game room or similar facility made available without cost to the renter and/or owners of individual units within the premises wherein alcoholic beverages, light wine or beer may be furnished free of charge by said owners or renters to their guests; provided, further, that the owner or manager of any business other than a restaurant may promote and advertise on the premises the services/products of said business by furnishing free of charge to its customers of legal age any alcoholic beverage, light wine or beer.

- (3) Provided, however, the management of any restaurant that does not possess such a permit and/or license may allow its customer to bring on the premises and consume with meals in the restaurant area only light wine or beer or alcoholic beverages during the hours applicable to licensed on-premises retailers; provided, further, that the management, including the owner of any such restaurant, shall abide by and comply with all applicable chapters pertaining to on-premises retailers.
- (b) *Restaurants without on-premises retailer's permit.* The owner of any restaurant that does not possess on-premises retailer's permit before complying with subsection (a) of this section shall make application to be provided by the city clerk and pay an annual fee of \$10.00 for a "restaurant consumption permit." Said permit shall be approved by the City Council before said permit is valid. Any violation of any of the chapters applicable to such restaurants shall result in a revocation of the permit by said board.
- (c) *Occupancy capacity limitations.* The number of occupants of any building or portion thereof shall not be permitted to exceed the allowed or posted capacity. In addition, no person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assembly. Any police official, upon finding any overcrowding conditions or obstructions in aisles, passageways, or other means of egress, or upon finding any conditions which constitute a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped until such conditions or obstructions are corrected.

4. Section 5-27 -- Schedule of privilege taxes.

There is hereby imposed and assessed to be collected and paid annual privilege taxes on persons engaged in the sale or distribution of light wines or beer for the privilege of engaging in or continuing in such business in accordance with MCA 1972, §§27-71-303, 27-71-345 and 67-3-27.

5. Section 5-28 -- Violations: revocation of license

- (a) *Individuals or entities holding retail beer and light wine privilege licenses.* In addition to any other penalties prescribed by law, any business entities violating the provisions of this chapter shall be subject to the following penalties:
  - (1) *First offense.* A beer and light wine privilege licensee that violates the provisions of this chapter may have such license suspended for a period of up to two weeks.
  - (2) *Second offense.* A beer and light wine privilege licensee that violates the provisions of this chapter a second time within 365 calendar days of the first offense may have such license suspended for a period of up to three weeks.
  - (3) *Third offense.* A beer and light wine privilege licensee that violates the provisions of this chapter a third time within 365 calendar days of the first offense shall have its license revoked. The licensee may reapply for such

license, pursuant to the requirements of this chapter, after two years from the date of the third violation that led to such revocation.

- (b) *Bartenders/servers.* In addition to any other penalties proscribed by law, any bartender or server who in any way violates the provisions of this article in his capacity as a bartender or server, shall be guilty of a misdemeanor and may be fined not exceeding the sum of \$500.00, or sentenced to serve not exceeding 90 days in jail, or both. Further, any violation of a bartender or server of any establishment holding a privilege license pursuant to this chapter shall also be considered an offense of the establishment as defined in subsection (a) of this section.
- (c) *Compliance representatives.* In addition to any other penalties prescribed by law, any compliance representative who does not comply with the permit requirements of this article, or in any way violates the provisions of this article in his capacity as a compliance representative and/or bartender/server, shall be guilty of a misdemeanor and may be fined not exceeding the sum of \$500.00. or sentenced to serve not exceeding 90 days in jail, or both, and in addition any compliance representative permit issued to such person by the city shall be revoked. Further, any violation of a compliance representative of any establishment holding a privilege license pursuant to this chapter shall also be considered an offense of the establishment as defined in subsection (a) of this section.

6. Delete Article 3 -- Brown bag regulations