

ORDINANCE NO. 470

**ORDINANCE REGULATING THE SALE AND CONSUMPTION OF ALCOHOLIC
BEVERAGES WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF
LUCEDALE**

WHEREAS, pursuant to Mississippi Code Annotated § 67-1-14, the City of Lucedale, Mississippi, held a special election on April 22, 2025, to determine whether the legal sale and the receipt, storage and transportation for the purpose of sale of liquor and alcoholic beverages should be permitted within the municipality; and

WHEREAS, the final certified results of the special election were 218 votes “For the legal sale of alcoholic beverages” and 97 votes “Against the legal sale of alcoholic beverages”; and

WHEREAS, upon the majority of votes being cast in favor of the legal sale of alcoholic beverages, the City of Lucedale is authorized and required to pass an ordinance permitting such sales within its corporate boundaries pursuant to Miss. Code Ann. § 67-1-14; and

WHEREAS, the Mayor and Board of Aldermen of the City of Lucedale find and determine that it is in the public interest and will promote public health, safety, morals, and the general welfare to adopt reasonable rules and regulations governing the sale and possession of alcoholic beverages in the City; and

WHEREAS, under the delegated and implied powers given the Mayor and Board of Aldermen by the State of Mississippi, the sale of alcoholic beverages may be regulated by said Mayor and Board of Aldermen in order to promote the health, morals, and safety of the citizens of the City of Lucedale, Mississippi; and

WHEREAS, the Mayor and Board of Aldermen may adopt Ordinances and make amendments thereto; and

WHEREAS, nothing in this Ordinance shall be construed as to override or supersede any controlling state law concerning the sale and consumption of alcoholic beverages;

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

SECTION 1: Definitions and Applicability

Except as otherwise defined herein, this chapter shall be deemed to apply the definitions to terms that are provided by state law as state law now exists or is hereafter amended or adopted, including, where applicable, the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) in connection with the subjects of alcoholic beverages, including but not limited to, those definitions appearing in Mississippi Code Annotated Section 67-1-5 as currently defined or as hereafter amended and revised. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Alcoholic beverage” means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine, light spirit product and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines and native spirits. The words “alcoholic beverage” shall not include ethyl alcohol manufactured or distilled solely for fuel purposes or beer of an alcoholic content of more than eight percent (8%) by weight if the beer is legally manufactured in this state for sale in another state.

“Person” means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

“Manufacturer” means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

“Wholesaler” means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

“Retailer” means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

“Restaurant” means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. Except as otherwise provided in this paragraph, no place shall qualify as a restaurant under this article unless fifty percent (50%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to fifty percent (50%) or more of total revenue. *See also Mississippi Code Ann. Section 67-1-5.*

“Hotel” means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations.

SECTION 2: Incorporation of Laws, Rules and Regulations of State of Mississippi Including Rules and Regulations of 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. 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 state law, statutes, rules or regulations including the Rules and Regulations of the Mississippi Department of Revenue (Alcohol Beverage Control) shall be deemed to be superseded by state law, statute, rules or regulations. 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 3: 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 Lucedale 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 sale of alcoholic beverages within prohibited distances from churches, schools, kindergartens and funeral homes.

SECTION 4: Restrictions on the Sale of Alcoholic Beverages

A. Incapacitated Persons. It shall be unlawful for anyone to sell, give or furnish alcoholic beverages in any manner, at any time or place to any person who is known to be insane or mentally incapacitated, or to any person who is visibly intoxicated, or to knowingly sell, furnish

or give the same to any person for delivery unto such person. Violation of this article will subject offender to a fine up to but not to exceed \$1,000 or imprisoned for no more than 90 days or both such fine and imprisonment.

B. Sales to Minors Prohibited.

1. Except as otherwise permitted by state law as it currently exists or is hereafter amended or added, including, but not limited to, the exceptions/exemptions contained in Mississippi Code Annotated Section 67-1-81 or otherwise permitted in this chapter, any permittee or other person or entity who shall sell, furnish, dispose of, give or cause to be sold, furnished disposed of or given any alcoholic beverage including but not limited to Alcoholic Beverages to any person under the age of twenty-one (21) years shall be guilty of a misdemeanor and shall be subject to punishment under the terms of Mississippi Code Annotated Section 67-1-81 (1).
2. Except as otherwise permitted by state law as it currently exists or is hereafter amended or added, including, but not limited to, the exceptions/exemptions contained in Mississippi Code Annotated Section 67-3-54 or otherwise permitted in this chapter, any person under the age of twenty-one (21) years who purchases, receives or has in his or her possession in any public place, any alcoholic beverage, including but not limited to Alcoholic Beverages, shall be guilty of a misdemeanor and shall be subject to punishment under the terms of Mississippi Code Annotated Section 67-1-81 (2). Any person under such age who knowingly makes a false statement to the effect that he or she is twenty-one (21) years old or older to any person engaged in the sale of alcoholic beverages or beer or light wine for the purpose of obtaining the same shall be guilty of a misdemeanor and shall be subject to punishment under the terms of Mississippi Code Annotated Section 67-1-81 (2).

C. On-premises kitchen facilities required. No alcoholic beverage shall be sold for on-premises consumption unless the seller has suitable kitchen facilities on the licensed premises to provide for the preparation, cooking and serving of food so that food sales generate fifty (50) percent of gross revenue, or unless the value of food given to and consumed by customers is equal to fifty (50) percent or more of total revenue. Further, no place shall qualify as a restaurant unless the same meets the requirements set forth by Title 35 Department of Revenue Part II Chapter 3 Section 201 (1)-(4) and Section 202 and 203 of Alcohol Beverage Control Regulations. The service of foods not prepared on the premises shall not be deemed in compliance with the requirements of this section. Restaurants must contain seating for a minimum of twenty (20) guests with suitable facilities for consumption of food for its patrons and the kitchen facilities must remain open for business so long as alcoholic beverages are being sold.

D. Special Venues Hosting An Event Without A Kitchen. Except as permitted by State Law, venues that do not have a full service kitchen as detailed under the previous article may apply for a one-time permit received from the City Clerk's office (one-time being defined as only being good for the date specific event to be hosted by said venue) with the Board of Aldermen's approval. This permit must be applied for at least forty-five (45) days prior to the date of the event. A separate application must be made for each time a one-time permit is sought for any such venue. The granting of a one-time permit shall not in any way insure or guarantee that permits sought for similar events in the future at such venue will be granted. The fee for such permit shall be One Thousand and 00/100ths Dollars (\$1,000.00) per application.

E. Drive-Thru Sales Prohibited. It shall be unlawful to sell alcoholic beverages through a drive-thru window sales facility or similar facility within the municipal boundaries of the City of Lucedale, Mississippi.

F. Advertising. Except as permitted by State Law, there shall be no advertising for Alcoholic Beverages outside of the interior of the building where it is sold and/or consumed.

There shall be no advertising or storage of Alcoholic Beverages within the interior of the store which allows it to be visible from the street or highway side of store or establishment. This shall exclude a sign demonstrating the business name as may be allowed by code in the City of Lucedale.

G. Sunday Sales. The sale of Alcoholic Beverages on Sundays within the City of Lucedale shall be permitted only upon approval by the Mississippi Department of Revenue (Alcoholic Beverage Control Division), as required by state law and regulations. The governing authorities of the City of Lucedale shall submit a formal petition to the Department of Revenue within seven (7) days of the adoption of this Ordinance, requesting authorization for Sunday sales. Upon approval by the Department, Sunday sales shall be allowed without the need for a separate ordinance or further amendment.

H. Transportation for Compensation Prohibited. It shall be unlawful in the City of Lucedale for any person to transport or deliver any alcoholic beverage to another person for compensation of any kind except as permitted by state law, rules or regulations. *State law reference: Mississippi Code Annotated 1972, Section 67-1-1, et seq. and Section 27-71-15, et seq.*

I. Possession of Alcoholic Beverages By Operators of Public Conveyance Prohibited. It shall be unlawful in the City of Lucedale for any person operating any public conveyance to have any alcoholic beverage in their possession in such conveyance. "Public Conveyance" shall be defined as a taxi service, a limousine service, a bus service, or any other motorized means of conveyance operating as a means of transporting people for hire, except as permitted by State Law.

J. Employment of Persons Under the Age of 21. It shall be unlawful in the City of Lucedale 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 and Regulations of the Department of Revenue, in their present form and as hereinafter amended. *State Law Reference: Employment of Persons Under 21 Prohibited, Mississippi Administrative Code, Section 35.11.2.08.*

K. Hours of Sale. As set by State of Mississippi law, rules and/or regulations, alcoholic beverages may be sold as follows:

- (i) For holders of a state package retailer's permit, between the hours of 10:00 a.m. and 10:00 p.m., except that no sales may be made on Sundays or on Christmas Day; and
- (ii) For on-premises permittees, including hotels, restaurants, clubs, or caterers with a valid State permit, the hours of sale for Alcoholic Beverages shall be between 10:00 a.m. and midnight, Monday through Saturday. Sunday sales are not permitted unless and until approved by the Mississippi Department of Revenue. The City shall petition the Department to authorize Sunday on-premises sales between the hours of 10:00 a.m. and 11:00 p.m. Upon approval by the Department, such hours shall become effective immediately and automatically, without the necessity of any further action by the City.

It is further provided that on New Year's Eve, on-premises permittees may remain open until 1:00 a.m. on January 1st. If New Year's Eve falls on a Sunday, on-premises permittees may remain open from 1:00 p.m. until 1:00 a.m. on January 1st. The City shall include this New Year's Eve exception in its petition to the Department.

(iii) The hours and days of sale for Alcoholic Beverages set forth in this Ordinance are in conformity with current state law and regulations. These provisions shall automatically conform to any future changes or amendments to state law or the regulations of the Mississippi Department of Revenue (Alcoholic Beverage Control Division), without the necessity of amending this Ordinance. The City shall submit a request for Sunday sales authorization in accordance with ABC regulations as described herein.

(iv) Any other limits, prohibitions or exceptions granted by state laws, rules and/or regulations, in their present form and as hereinafter amended, are hereby adopted by reference.

State law reference: Hours and Days During Which Alcoholic Beverages May Be Sold by Hotels, Restaurants, Clubs, Package Stores and Caterers, Mississippi Administrative Code, Section 35.11.2.04.

L. Sales for Off-Premises Consumption. It is unlawful for any Alcoholic Beverages to be sold for off-premises consumption in quantities less than said products are pre-packaged for sale by the manufacturer.

M. Bagging of Alcoholic Beverages Sold for Off-premises Consumption. The sales clerk of each premises selling packaged Alcoholic Beverages must first place the same in a non-see-through, opaque bag or sack before delivering same to purchaser.

N. Requirements for Insurance. Permittees selling alcoholic beverages within the municipal boundaries of the city shall procure and maintain at all times general liability insurance and other necessary insurance which shall specifically insure against alcohol related events.

O. Right of Inspection. The Mayor and Board of Aldermen shall have the power and authority to authorize any designated employee of the City of Lucedale to demand the inspection of all invoices, sales tax reports and other business papers or records which would reflect the true amount of sales being made by a Restaurant. The Mayor and Board of Aldermen shall have the right to demand such records at least quarterly, or more often if the Mayor and Board of Aldermen shall have any reason to believe that the restaurant is not meeting the 50% Food Rule. The failure to furnish said records to the Mayor and Board of Aldermen or to any designated employee of the City of Lucedale shall be a violation of the ordinance and shall be punishable as herein provided. Further, the Mayor and Board of Aldermen may immediately revoke the permit of any restaurant refusing to furnish said records to the Mayor and Board of Aldermen or any designated employee of the City. Additionally, if a restaurant refuses to cooperate with an audit or if the results of an audit result in the restaurant failing to meet the 50% Food Rule, the restaurant shall be responsible for all expenses incurred by the City associated with the audit.

SECTION 5: Restrictions on Consumption of Alcoholic Beverage

A. Open Containers Prohibited on Public Property. It shall be unlawful for any person to possess an open container of alcoholic beverage on public property, including buildings, parking lots, sidewalks, streets and parks within the municipal boundaries of the City of Lucedale, Mississippi unless the same is located in a private residence or in a business establishment or a special event property duly permitted for the on-premises consumption of alcoholic beverages, and meeting all applicable safety, health, and building codes of the City and the State. Open containers do not include empty containers.

B. Open Container – Vehicles. It shall be unlawful for any person to possess an open container of alcoholic beverage either as an operator or passenger of a motor vehicle. Open containers shall include containers that have been opened and reclosed. Open containers do not include empty containers.

C. Under Age Possession – Private Property. It shall be unlawful for any person not of legal age (21) to possess a container of alcoholic beverage on private property.

D. Consumption of Package Alcoholic Beverage. There shall be no on-premises consumption of packaged alcoholic beverage on the premises where the same is sold.

E. On-Premises Consumption. It shall be unlawful for any premises licensed for on-premises consumption to allow a patron to leave such premises with either a full or partial

container of alcoholic beverage, unless otherwise permitted under a valid special event permit issued by the City.

F. Possession or Consumption on City Property Prohibited. The possession or consumption of alcoholic beverages on real property owned or occupied by the city is prohibited unless a special events permit is obtained. The Mayor and Board of Aldermen reserve the right to regulate the time, place, and manner of special events in order to protect public health and safety, reduce adverse impacts on public places and neighboring areas, and protect the rights of other users of public places. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$300.00 or imprisoned for a period not to exceed 30 days, or both.

SECTION 6: Prohibited Acts Upon Licensed Premises. The following described acts shall be deemed unlawful for any permittee for on-premises or off-premises sale or consumption of Alcoholic Beverages:

A. Indecent Exposure. A person who willfully and lewdly exposes his/her person, or private parts thereof, in or upon any duly licensed premises, or procures another to so expose him or herself, is guilty of a misdemeanor and shall upon conviction be fined not more than but up to \$1,000.00 or incarcerated for up to 90 days or both.

1. A person shall be deemed indecent, or will be considered "lewdly exposed" if:

- (a) engages in sexual intercourse upon such premises;
- (b) engages in deviant sexual conduct upon such premises;
- (c) appears in a state of nudity upon such premises;
- (d) fondles the genitals of oneself or another person upon such premise; or
- (e) simulation of any of a through d listed above.

2. "Nudity" shall mean the showing of the male or female genitals, area, or buttocks with less than a fully opaque covering, or any part of the human female breast, directly or laterally below a point immediately above the top of the areola, or the showing of the covered male genitals in a discernibly turgid state.

3. No permittee, employee or agent thereof shall allow or permit any person to willfully and lewdly expose his or her person, or private parts, thereof in or upon any licensed premises, or procure another to expose him or herself upon said premises. Allowance of such could result in revocation of Permittee permit and/or license and could result in misdemeanor charges lodged against permittee, employee or agent thereof.

B. Noise. No person(s), including but not limited to permittee, shall cause or permit loud, boisterous, or disorderly conduct of any kind in or upon a licensed premises.

C. Gambling. No person shall gamble illegally or operate an illegal game or games of chance as defined by Mississippi Code Annotated Section 97-33-1 et seq. in or upon a licensed premises. Further, no permittee, employee or agent thereof shall permit, allow or suffer illegal gambling or the operation of illegal games of chance as defined by Mississippi Code Annotated Section 97-33-1 et seq. in or upon a licensed premises.

SECTION 7: Permitted Premises Where Alcoholic Beverages May be Sold.

All establishments within the City of Lucedale that are licensed to sell alcoholic beverages must comply with the regulations set forth in the Mississippi Code Annotated § 67-1-51(3) and the Mississippi Administrative Code Title 35, Part II, Subpart 2, Chapter 3, as enforced by the Mississippi Department of Revenue's Alcoholic Beverage Control Division.

A. The minimum distances provided in Miss. Code Ann. Section 67-1-51(3), shall be measured from the nearest point of the building housing the church, school, kindergarten or funeral home to the nearest point of the premises which consist of the floor planned area to be

licensed by the Commissioner. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.

B. No person shall sell or offer for sale any alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.

C. In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcoholic beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place of sale of the alcoholic beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.

D. A church or funeral home may waive the distance restrictions in favor of allowing issuance by the Commissioner of a permit authorizing the sale of alcoholic beverages that would otherwise be prohibited under the minimum distance requirements. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver and the waiver shall be filed with and verified by the Commissioner before becoming effective.

SECTION 8: Zoning and Building Code.

All establishments within the City of Lucedale that sell or permit the consumption of alcoholic beverages must comply with the City's zoning ordinances and building codes. In the event of any conflict between this ordinance and the City's zoning regulations, the provisions of the zoning ordinances shall prevail. Furthermore, all such establishments must adhere to applicable state laws and regulations, including those enforced by the Mississippi Department of Revenue's Alcoholic Beverage Control Division.

SECTION 9: Enforcement

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

SECTION 10: 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 11: Limitation

It is the intent of the City of Lucedale 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 the applicable state law, rule or regulation shall prevail, and the remainder of this ordinance shall remain in full force and effect.

SECTION 12: Reserved

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

SECTION 14: Severability Clause. If any provision of this Ordinance or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application.

On May 6, 2025, the foregoing ordinance was read, discussed, and considered section by section and as a whole; voted on section by section and as a whole; and passed section by section and as a whole; the vote in every instance being as follows:

ALDERMAN LOUIS VALENTINE
ALDERMAN AT-LARGE

ALDERMAN CARRIE MOULDS
WARD ONE
VOTED: YAY

ALDERWOMAN CAROL HOWELL
WARD TWO
VOTED: YAY

ALDERWOMAN BRITTANY GREEN
WARD THREE
VOTED: YAY

ALDERMAN AL JONES
WARD FOUR
VOTED: NAY

The motion having received the affirmative vote of a majority of the members of the Governing Body present, the Mayor declared the motion carried and the Ordinance adopted on the 8th day of May, 2025.



DOUG LEE,
MAYOR

Tammy Oldenquist
TAMMY OLDENQUIST,
CITY CLERK

