

## ORDINANCE NO. 299

### **AN ORDINANCE ESTABLISHING A REGULATION FOR THE RETAIL SALE OF BEER, LIGHT WINE, AND ALCOHOLIC BEVERAGES**

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF MAGEE, MISSISSIPPI THAT:

#### Section 1                      PRIVILEGE LICENSE REQUIRED

Any person, partnership, firm or corporation desiring to engage in the business of selling beer or alcoholic beverages at retail shall pay the City a privilege license tax at the same rate as that imposed by Sections 27-71-303 and 27-71-345 of the Mississippi Code of 1972, annotated and as amended, for the purpose of engaging in such business and shall file with the City Clerk of the City of Magee, Mississippi, an application showing that said person, partnership, firm, or corporation possesses all the requirements provided for in this Ordinance. Further, Applicants shall apply to the Chairman of the Mississippi State Tax Commission for a permit as required by Sections 67-3-17 and 67-3-23 of the Mississippi Code of 1972, annotated and as amended. All such city privilege licenses shall be issued for a period of one year and the holder thereof may apply for renewal thereafter. Said licenses shall be displayed conspicuously in licensees' place of business and said licenses shall not be transferable. It shall be unlawful for any person, partnership, firm, or corporation to engage in the business of the retail sale of alcoholic beverages beer, or light wine without having first applied for and obtained from the Clerk and Tax Collector a privilege license to engage in such business as aforesaid.

#### Section 2                      APPLICATION REQUIRED

Any person, partnership, firm, or corporation desiring a license to sell beer or alcoholic beverages at retail or desiring to renew such a license to sell beer or alcoholic beverages shall file an application with the Clerk and Tax Collector in the form of a sworn statement giving the address, the name of the business, its location, 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, the post office address, the nature of business in which engaged. In case any business is conducted by the same person, partnership, firm or corporation at two or more separate places, a separate license for each place of business shall be required.

The applicant shall further show in his sworn application for a license that he, the partnership, firm or corporation possesses the following qualifications:

- (a) Applicant must be over 21 years of age and a person of good moral character, a citizen of the United States and the State of Mississippi.
- (b) Applicant shall not have been convicted in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution.
- (c) Applicant shall not have been convicted in this or any other state within five years preceding the date of his application of any laws of this or other states, or of the United States relating to beer, alcoholic beverages, liquors or gambling or have had revoked any license or permit to sell beer, alcoholic beverages or liquors of any kind.
- (d) Applicant shall be the owner of the premises for which the permit is sought

or the holder of a bona fide written lease thereupon.

- (e) If applicant is a partnership or firm, all members of the partnership or firm must be named and shall be qualified to obtain a license.
- (f) If applicant is a corporation, all officers and directors thereof, and any stockholder owning more than 5% of the stock of such corporation, and the person or persons who shall operate the licensed premises for the corporation shall possess all the qualifications required herein for an individual permittee; provided however, that the requirements as to residents shall not apply to officers, directors, and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises in any capacity, in the conduct or operation of the licensed premises.

### Section 3

#### LOCATION TO BE IDENTIFIED

In addition to the foregoing information required as to said application, the said application shall give the location of the proposed site for such sale, and the Mayor and Board of Aldermen reserve the right to determine whether or not such business shall be permitted to conduct the sale of beer or alcoholic beverages at such location, and no permit shall be granted to any person, firm, partnership, or corporation where it is apparent that the same shall be conducted in such close proximity to any church sanctuary, school entrance, funeral home, or kindergarten as might prove harmful to the general welfare, health, and morals of the community.

#### I. Restaurants:

- (a) Any restaurant located in an area of the City that is zoned C-3 or any licensed caterer or Downtown Preservation district (DPD) shall be permitted to sell, dispense, or give away alcoholic beverages that meet the Mississippi state legal requirements, or less, between the hours of 9:00 a.m. to 12:00 a.m., Monday through Sunday and until 1:00 a.m. on New Year's Eve.
- (b) No restaurant may serve or allow alcoholic beverages outside an enclosed structure or outside of a fenced-in patio area, which contains seating adjoining the restaurant. No person shall be permitted to leave the restaurant or patio area with any alcoholic beverage.
- (c) For purposes of this Ordinance, a restaurant is a place of business 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 food and meals; the service of food such as sandwiches, salads, and snack food shall not be deemed to be in compliance with this requirement. No place of business shall qualify as a restaurant unless sixty percent (60%) or more of the revenue derived from such place of business shall be from the preparation, cooking, and serving of food and meals, and not from the sale of alcoholic beverages. Any restaurant may be required to provide proof of said 60% food sales to City officials on a regular basis, but not more than once every 90 days. A violation of this provision is subject to penalties as set out in Section 8 herein.

#### Section 4

#### GENERAL RESTRICTIONS

It shall be unlawful for any persons, partnership, firm, business, or corporation within the corporate limits of the City of Magee, Mississippi:

- (a) To sell, dispense, give or otherwise deliver beer, light wine or light spirits to anyone between the hours of midnight and 7:00 o'clock the following morning.
- (b) To permit consumption of alcoholic beverages on the premises of any business establishment that sells said alcoholic beverages except for those restaurants described in Section 3.
- (c) To sell, give or furnish any beer or alcoholic beverages to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of 21 years or to sell beer or alcoholic beverages to any person knowing that the person to whom the beer or alcoholic beverages are sold is buying the same for a person described in this paragraph.
- (d) To permit on the premises of any place licensed to sell beer or alcoholic beverages any lewd, immoral or improper entertainment or conduct or practices.
- (e) To permit loud, boisterous or disorderly conduct of any kind upon the premises of any place licensed to sell beer or alcoholic beverages or to permit the use of loud musical instruments if either or any of the same disturb the peace and quietude of the community wherein such business is located.
- (f) To sell, dispense, or give away beer or alcoholic beverages without having paid the privilege tax to the City of Magee, Mississippi as provided by this Ordinance.
- (g) To work or employ anyone under 21 years of age in said place, business or establishment where beer or alcoholic beverages are sold except under proper and constant supervision of the adult owner or owners or an adult employee or employees.
- (h) To permit or suffer gambling or the operation of games of chance upon licensed premises.

#### Section 5

#### CONSUMPTION RESTRICTIONS

It shall be unlawful for any person within the corporate limits of the City of Magee, Mississippi to consume beer or alcoholic beverages on the streets, avenues, sidewalks, alleys, public parks, city owned parking lots and other publicly owned premises. Further, no beer or alcoholic beverages shall be consumed in motor vehicles either parked or while moving within the City of Magee, Mississippi.

#### Section 6

#### OPEN CONTAINERS

It shall be unlawful for any person within the corporate limits of the City of Magee, Mississippi to possess beer or alcoholic beverages in open containers on the streets, avenues, sidewalks, alleys, roadways, public parks, public parking lots and other publicly owned

premises.

Section 7                    AGE RESTRICTIONS

It shall be unlawful for any person within the corporate limits of the City of Magee, Mississippi to possess, give, buy or receive beer or alcoholic beverages unless 21 years of age or older, notwithstanding, persons under the age of 21 years may handle beer or alcoholic beverages while employed by a permit holder provided they are performing the duties of their employment on the premises of a permit holder and under the supervision of an adult who is on the premises.

Section 8                    PENALTY FOR VIOLATION

The Municipal Judge may suspend or revoke the licenses of any retailer of beer who has been convicted of violating this Ordinance, and such revocation of a license shall be in addition to and not in lieu of any other penalty provided by this Ordinance.

Any person, partnership, firm, or corporation violating any provisions of this Ordinance shall be fined not less than \$100.00 and not more than \$1,000.00 or imprisoned in the City jail for not more than 90 days or be punished by both such fine and imprisonment. Each violation shall be a separate offense and fines and imprisonment may be assessed for each offense.

Section 9                    PUBLICATION

The City Clerk shall cause this Ordinance to be published for one time in the Magee Courier, a newspaper published in the City of Magee, Mississippi, and which is duly qualified to publish legal notices.

Section 10                  EFFECTIVE

This Ordinance effects the health and safety of the citizens of the City of Magee and shall take effect and be in force upon passage.

Section 11                  PRIOR ORDINANCE

Ordinance Numbers 181, 229, 262, 277, 277-A and 284 previously passed by the Mayor and Board of Aldermen should be and are hereby repealed.


A Motion was made to adopt the above and foregoing Ordinance by Alderman Tebo, and said Motion was duly seconded by Alderman Thompson, whereupon Mayor Berry called for a roll call vote on the matter and the vote was as follows:

	Yea	Nay
Mark Grubbs	<u>  X  </u>	<u>          </u>
Lawana Thompson	<u>  X  </u>	<u>          </u>
Sammie Tebo	<u>  X  </u>	<u>          </u>
Patrick Brown	<u>  X  </u>	<u>          </u>
Sue Honea	<u>  X  </u>	<u>          </u>

The Ordinance having received the affirmative vote of a majority of the members of the Board of Alderman of the City of Magee, Mississippi, Mayor Dale Berry declared said Ordinance to have been fully adopted and to be in full force and effect according to its provisions.

SO ORDERED, this the 17<sup>th</sup> day of September, 2024.

  
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 DALE BERRY, MAYOR

ATTEST:  
  
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 JON STYRON  
 CITY CLERK