

## ORDINANCE NUMBER 2009-04

AN ORDINANCE AMENDING ORDINANCE NUMBER 2005-02 OF THE CITY OF STARKVILLE, OKTIBBEHA COUNTY, MISSISSIPPI, AS AMENDED, IN ORDINANCE 2006-8A, TO INCREASE THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES, BEER, AND LIGHT WINE; AND TO ALTER THE DISTANCE REQUIREMENTS IN CONFORMANCE WITH THE STATE TAX COMMISSION

WHEREAS, the State of Mississippi has granted to the State Tax Commission extensive regulatory powers and responsibilities over the sale and distribution of alcoholic beverages, beer, and light wine, which have been delegated to the Alcoholic Beverage Control Division under Mississippi Code Annotated §67-1-1, et seq. (1972, as amended) and Mississippi Code Annotated §67-3-1, et seq. (1972, as amended); and

WHEREAS, the authority of a municipality to regulate the sale of beer and light wine is limited by law under Mississippi Code Annotated §67-3-65 (1972, as amended) to enforcing such proper rules and regulations for fixing zones and territories, prescribing hours of opening and closing, and for such other measures as will promote public health, morals, and safety as they may by ordinance provide; and

WHEREAS, the Mayor and Board of Aldermen believe it is in the best interest of the City of Starkville to amend its City Ordinance Number 2005-02 and Ordinance Number 2006-8a under the authority of Mississippi Code Annotated §67-3-65 (1972, as amended) to prescribe hours of opening and closing and to designate territories surrounding churches and schools in which beer and light wine shall not be sold or consumed, and for such other measures as will promote public health and safety, as they may by ordinance provide;

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of the City of Starkville that Ordinance Number 2005-02 and Ordinance Number 2006-8a and the City of Starkville Code of Ordinances, Chapter 10, Alcoholic Beverages as adopted, are amended as follows:

**Section 2 shall be repealed and replaced with the following language:**

Section 2: Privilege License Required.

No beer and light wine shall be sold within the municipal boundaries of the City of Starkville unless the seller has first obtained a retail ABC permit from the Mississippi State Tax Commission under Mississippi Code Annotated §67-3-17 (1972, as amended) and has also obtained a privilege license from the City of Starkville and paid the applicable privilege license fee to be renewed annually;

**Section 3 shall be repealed and replaced with the following language:**

Section 3: Territory where sale is prohibited.

(a) On-premises Consumption.

No beer or light wine shall be sold for on-premises consumption within two hundred fifty (250) feet of the nearest point of the primary building of any church or school property functioning as a church, school, child care facility or funeral home. This distance 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 Commission. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.

(b) Off-premises Consumption.

No beer or light wine shall be sold for off-premises consumption within one-hundred (100) feet of the property line of any church or school property functioning as a church, school, child care facility or funeral home. This distance shall be measured by the same criteria as listed in subsection (a) above.

**Section 4 shall be repealed and replaced with the following language:**

Section 4: Hours when sale is prohibited. No beer or light wine shall be sold for on-premises or off-premises consumption between the hours of 12:00 midnight and 7:00a.m. on Monday through Saturday, except that the legal hours shall be extended on Friday from 12:00 midnight to 1:00 a.m. on Saturday, and on Saturday legal hours shall be extended from 12:00 midnight to 1:00 a.m. on Sunday. Further, the legal hours for on-premises consumption only shall be extended to 1:00 a.m. on those weekdays wherein Mississippi State University has a home football game. No beer or light wine shall be sold for on-premises or off-premises consumption between the hours of 2:00 a.m. and 11:00 a.m. and after 10:00 p.m. on Sunday.

Section 8: Severability. The provisions of this Ordinance shall be separable and the invalidity of any of its sections shall not affect the remaining sections.

This Ordinance shall amend the City of Starkville duly adopted Code of Ordinances, Chapter 10, Alcoholic Beverages, Article II, Sections 10-37; 10-38; and 10-39.

This Ordinance Number 2009-04 shall amend Ordinance Number 2005-02 and shall be in full force and effect thirty (30) days after its passage and publication.

The Clerk is directed to cause this Ordinance to be published one time in the Starkville Daily News and to obtain proof of publication thereof.

UPON MOTION of Alderman \_\_\_\_\_, duly seconded by Alderman \_\_\_\_\_ the aforesaid Ordinance was put to a roll call vote with the Aldermen voting as follows:

Alderman Ben Carver Voted: \_\_\_\_\_

Alderman Sandra Sistrunk Voted: \_\_\_\_\_  
Alderman Eric Parker Voted: \_\_\_\_\_  
Alderman Richard Corey Voted: \_\_\_\_\_  
Alderman Jeremiah Dumas Voted: \_\_\_\_\_  
Alderman Roy A.' Perkins Voted: \_\_\_\_\_  
Alderman Henry Vaughn Voted: \_\_\_\_\_

ORDAINED AND ADOPTED, this the 18th day of August , A.D., 2009 at the Recess Meeting of the Mayor and Board of Aldermen of the City of Starkville, Mississippi.

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PARKER WISEMAN, Mayor  
City of Starkville, Mississippi

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MARKEETA OUTLAW, City Clerk  
City of Starkville, Mississippi