

Ordinance No. 81-05

Now be it and it is hereby ORDAINED by the Mayor and City Council of the City of Cartersville, that the CITY OF CARTERSVILLE CODE OF ORDINANCES CHAPTER 4. ALCOHOLIC BEVERAGES. is hereby amended by deleting said Chapter in its entirety and replacing it with the following as indicated below:

I.

ARTICLE 1. IN GENERAL

Section 4-1. Definitions.

The definitions in O.C.G.A. Title 3 apply to this article. In addition, 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:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcohol Control Board means the board appointed by the Mayor and City Council to conduct hearings on issuance, transfer, denial, fining, suspending, revoking or placing on probation, and to administer licensees, owners and licenses regarding the sale of alcoholic beverages within the city limits if a violation of the City of Cartersville Code of Ordinances has occurred or state law and to have all other powers conformed upon them by the Mayor and City Council. (Effective July 1, 2004) (Amend. 3/18/10)

Alcoholic Beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

Distilled spirits means all beverages containing alcohol, obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.

Fortified wine means any alcoholic beverage containing more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Growler means a glass bottle not to exceed 64 ounces that is filled by a licensee or employee of a package outlet with beer from a keg. (Amend. 12-1-12)

Hotel or Motel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, and whether conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel or motel operation:

(1) Which maintains fifty (50) or more rooms used for the sleeping accommodations of such guests;

(2) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required therein;

(3) Which operates one (1) or more public dining rooms (excluding banquet rooms) with a combined seating capacity of at least fifty (50), where meals are regularly served to guests; provided, that, consistent with the definition of lounge, in no event shall the seating capacity of the lounge exceed that of the public dining rooms;

(4) Which employs sufficient personnel to serve food as required herein; and

(5) Which derives at least forty-five (45) percent of its gross income from the sale of such meals prepared, served and consumed on the premises. Cover charges can not be included in determination of gross income from food sales. The Director of Planning and Development or his/her designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the director of community development or his/her designee, and determine if the annual sales meet the required ratio and make the appropriate recommendations to the Alcohol Control Board. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant in their premises and the holder of such franchise shall be included in the definition of hotel. (Amend. 3/18/10)

(6) All restaurants must include a kitchen built to Commercial Kitchen Standards which include at a minimum:

(a) A three compartment sink with drainboards is required for all restaurants. The size of the sink compartments is determined by your type of operation. You must be able to immerse your largest piece of equipment or utensils to be washed in each compartment. Sink compartments in most establishments may not be smaller than 15" x 18".

(b) A handsink is required in all food preparation and toilet room.

(c) If your operation requires washing of vegetables and meats, or, thawing food under water, a food preparation sink will be required. This sink must have an indirect sewer connection.

(d) A mop sink or wash area is required for all restaurants.

(e) Adequate refrigeration must be provided.

(f) Adequate and approved work surface must be provided.

- (g) All rooms shall have sufficient mechanical ventilation to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Hoods and ventilation equipment must be approved by the building officials and the fire department in addition to the Health Department.
- (h) A commercial stove, oven, grill and/or range.

Licensee for the sale of distilled spirits by the drink on the premises means any person duly licensed to sell by the drink and for consumption only on the premises.

Lounge means a separate room connected with or a part of and adjacent to a restaurant or located in a hotel, provided that in no event shall the seating capacity of the lounge exceed that of its connected restaurant.

Manufacturer means any maker, producer, distiller, vintner, rectifier, blender, or bottler of distilled spirits or malt beverages and wine or any other alcoholic beverage.

Non profit facilities. Being facilities owned or operated by a 501(c)3 organization which includes at least a 60,000 square foot museum and at least two (2) other non-profit facilities which must be either a museum, educational facility, and/or theater.

Non profit licensee. Any 501(c)3 non profit corporation pursuant to the Internal Revenue Service which operates or owns at least one (1) museum of at least 60,000 square feet and at least two (2) other non profit facilities as defined herein to which a pouring license for the sell of malt beverages and wine and/or distilled spirits is issued.

Package means distilled spirits, wine or malt beverages sold, offered or stored including but not limited to kegs, bottles, growlers, can, or other original consumer container for sale at retail in sealed containers, not for opening or consumption upon the premises of the package outlet. (Amend. 12-1-12)

Package outlet means a store for the retail sale of either package wine or package malt beverages, distilled spirits or both, depending upon the license held, consumption on the premises not being permitted.

Package Wine Outlet means a store exclusively for the retail sale of package wine and no other alcoholic beverages. Said store shall be allowed to sell specialty items, including food (for example breads and cheeses). For the purpose of fees, said store shall pay the same licensing requirements as retail wine package store and for all other requirements of the ordinance unless other specified. However, food sales can be no more than thirty (30%) percent of their total gross revenue sales. Additionally, a package wine outlet shall be allowed to repackage or bottle wine for sale and shall be allowed to serve samples in eight ounce containers to patrons. Additionally, said establishment shall submit a report

on its sales and samples served on the forms prescribed by the Alcohol Control Board. (Amend. 8-3-06)

Pour means to sell alcoholic beverages for beverage purposes, to sell alcoholic beverages for consumption on the premises, and to sell alcoholic beverages by the drink or malt beverage and wine or both.

Pouring license means the authorization by the Alcohol Control Board to engage in the sale for consumption on the premises of distilled spirits. (Amend. 3/18/10)

Pour or sell by the drink means sell for beverage purposes for consumption on the premises.

Pouring outlet means any place where distilled spirits, wine and/or malt beverages (unless specifically modified) are poured or proposed to be poured. In the case of liquor and wine, "pouring outlet" means only a restaurant, hotel, private club or lounge.

Premises means the definite, closed-in or partitioned-in locality (whether room or building), sidewalk and right of way café, wherein pouring takes place, except as to hotels, where premises shall include guest rooms (if a state license is obtained), conference and/or banquet rooms within the hotel property.

Private club means a corporation organized and existing under the laws of the state, a private membership country club, or a fraternal or veterans organization having bylaws and a part of a national organization in existence at least ten (10) years, actively in operation within the city at least one (1) year immediately prior to the application for a license under this article, having at least one hundred (100) members regularly paying monthly, quarterly, semiannual or annual dues, organized and operated exclusively for fraternal brotherhood, pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any stockholder or member; and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of personnel and employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of distilled spirits to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations:

- (1) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required in this article;

(2) Which provides a regular seating capacity for at least fifty (50) persons; provided, that consistent with the definition of lounge, in no event shall the seating capacity of the lounge exceed that of its connected restaurant;

(3) Which employs sufficient personnel to serve food as required herein;

(4) Which serves at least one (1) meal per day at least five (5) days per week with the exception of holidays, vacations, and period of redecorating) and said meal must be served from 11:30 am to 1:30 pm or 7:00 pm to 9:00 pm every day the establishment is open and hours of operation must be posted on the front door of the premises.

(5) Which derives at least forty-five (45) percent of its gross income from the sale of such meals prepared, served and consumed on the premises. Cover charges can not be included in determination of gross income from food sales. The Director of Planning and Development or his designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the Director of Community Development or his designee, and determine if the annual sales meet the required ratio and make appropriate recommendations to the Alcohol Control Board. (Amend. 3/18/10)

(6) All restaurants must include a kitchen built to Commercial Kitchen Standards which include at a minimum:

(a) A three compartment sink with drainboards is required for all restaurants. The size of the sink compartments is determined by your type of operation. You must be able to immerse your largest piece of equipment or utensils to be washed in each compartment. Sink compartments in most establishments may not be smaller than 15" x 18".

(b) A handsink is required in all food preparation and toilet room.

(c) If your operation requires washing of vegetables and meats, or, thawing food under water, a food preparation sink will be required. This sink must have an indirect sewer connection.

(d) A mop sink or wash area is required for all restaurants.

(e) Adequate refrigeration must be provided.

(f) Adequate and approved work surface must be provided.

(g) All rooms shall have sufficient mechanical ventilation to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Hoods and ventilation equipment must be approved by the building officials and the fire department in addition to the Health Department.

- (h) A commercial stove, oven, grill and/or range.

Retail Cigar Shop shall mean a commercial establishment that sells full sized, hand-rolled cigars, which derives at least seventy (70%) percent of its gross income from the sale of tobacco products sold on the premises. The Director of Planning and Development or his designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the director of community development or his designee, and determine if the annual sales meet the required ratio and make appropriate recommendations to the Alcohol Control Board. (Amend. 3/18/10)

Retail dealer means any person who sells distilled spirits or beer or wine in unbroken packages at retail only to consumers and not for resale.

Retail package store means a place of business licensed to sell and distribute distilled spirits for retail.

Sunday Sales License means pouring license or license to sell by the drink malt beverage and wine and/or distilled spirits on Sundays. (Amend. 12-1-11)

Wholesaler means any person who sells distilled spirits to other wholesale dealers or retail dealers.

Section 4-2—4-4. Reserved

Division 2. Regulation of Establishments

Section 4-5. Minors on Premises.

No licensee under this article shall allow any person under twenty-one (21) to be in, frequent, or loiter about any distilled spirits package premises. unless the person under twenty-one (21) is accompanied by their parent or legal guardian.

Section 4-6. Storage of Alcohol Beverages.

No pouring licensee shall keep any alcoholic beverages stored in any bonded or other type of warehouse in the city, nor shall he enter into any type of arrangement whereby distilled spirits ordered by him is stored for him by any licensed wholesaler. A pouring licensee shall keep no inventory or stock of alcoholic beverages at any place except his licensed place of business, and within his licensed place of business in his storage space for alcoholic beverages which shall be immediately adjacent to the room in which he is licensed to do business.

Section 4-7. Gambling.

There shall be no gambling as defined by § Title 16, Chapter 12, Article 2 of O.C.G.A. in any place of business licensed under this article, or in any room adjoining same, owned, leased, or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license. The prohibition outlined in this section does not

apply to (1) the sale of Georgia Lottery tickets by a licensed dealer, (2) the playing of bona fide coin-operated amusement machines and the concomitant non-cash redemption associated with these machines as defined, set forth and permitted in O.C.G.A. §§ 48-17-1(2)(A) and (B) and 16-12-35 (a.1) through (i); (3) raffle operated in accordance with O.C.G.A. § 16-12-22.1; or (4) a licensed bingo hall governed by O.C.G.A. § 16-12-51 through 16-12-62 and the applicable regulations relating to same. (Amend. 3-2-06)

Section 4-8. Applicability of division.

Except where otherwise provided, the provisions of this division shall apply to package outlets and to pouring outlets.

Section 4-9. Sale unlawful at certain times.

It shall be unlawful for any person to sell any malt beverage and wine and distilled spirits on any Christmas Day or on any day prior to 6:00 am, or after 12:00 pm, unless specifically provided for herein. Additional, it shall be unlawful for any person to sell by package distilled spirits on Thanksgiving Day. (Amend. 12-1-11)

Section 4-10. Delivery of retail licensee.

Malt beverages or wine shall be received at or delivered to the premises of a retail licensee by no other means than by conveyance owned and operated by a wholesale dealer. Transportation of malt beverages by any other means shall be grounds for revocation of the retail or the wholesale license or both.

Section 4-11. Applicability of State Law.

The state laws and regulations relating to the sale and distribution of alcoholic beverages, malt beverages and wine and distilled spirits as revised in this state are incorporated into and made a part of this chapter as if fully set out herein. Any violation of such law or regulations shall be grounds for suspension or revocation of any license issued under this chapter.

Section 4-12. Compliance.

No person shall engage in the sale of distilled spirits by the drink for consumption on the premises or package and malt beverage and wine by the drink or package in the city without first complying with the provisions of this article.

Section 4-13. Licensees to keep copy of article on premises; employees to be familiar with terms; responsibility of licensee for violations.

Each pouring licensee shall keep a copy of this article in the licensed premises and shall instruct any person working there with respect to the terms hereof and each licensee, the licensee's agents and employees selling, pouring and serving distilled spirits shall at all times be familiar with the terms hereof. The licensee shall be responsible for any acts of agents or employees which are in violation of this article or of the laws of the state or the rules and regulations of the state revenue commissioner.

Section 4-14. Inspections.

(a) The business premises of a pouring or package outlet shall be open to inspection at any and all times by law enforcement officers, officers or officials authorized by the mayor and city council to conduct such inspections.

(b) The city manager shall appoint one (1) or more persons to conduct periodic inspections of the businesses regulated by this chapter and to report to the city manager any violation of any laws or ordinances regulating such businesses or other regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law or city ordinance, other than infrequent minor traffic violations.

Section 4-15. Authorized products for sale, consumption, etc.

(a) No distilled spirits retail dealer shall keep in stock, display, sell or offer to sell, at any place of business licensed hereunder, any other product or commodity except the following:

- (1) Wines, when properly licensed;
- (2) Malt beverages, when properly licensed;
- (3) Beverages containing no alcohol
- (4) Tobacco products;
- (5) Ice to be sold in sealed containers only and not to be opened on the premises;
- (6) Paper, Styrofoam or plastic cups; and,
- (7) Prepackage snacks and food items.

(b) Beverages containing no alcohol and tobacco products may be dispensed through the use of vending machines, but no alcoholic beverages shall be dispensed through such vending machines. No alcoholic beverages may be opened or consumed in the place of business nor on the premises thereof.

Section 4-16. Sales to certain persons prohibited.

No malt beverage and wine and/or distilled spirits licensee or employee thereof shall give, sell or offer to sell, pour or serve any distilled spirits to any person who is noticeably intoxicated, or who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the pouring licensee or employee thereof.

Section 4-17. Place of sale or delivery.

(a) No retail dealer shall sell or deliver any distilled spirits to any person except in such retail dealer's place of business. A retail dealer shall be permitted to load purchased goods in a customer's vehicle when the sale physically takes place and monies have been exchanged inside the place of business.

(b) No drive-in windows, unless pre-existing for one (1) year or more, or curbside service shall be permitted.

Section 4-18. Container limitations.

(a) No distilled spirits pouring licensee may purchase distilled spirits in containers smaller than seven hundred fifty (750) milliliters. The sale of distilled spirits

by any pouring licensee in unbroken packages or in any quantity for other than consumption on the premises is expressly prohibited.

(b) All licensed retailers shall sell or offer to sell in the original unbroken package only.

(c) Any package wine outlet dealer may repackage wine for sale, if said wine is labeled as repackaged wine. (Amend. 8-3-06)

(d) The sale of Growlers, in compliance with this Ordinance is authorized for package outlets, authorized to sell alcoholic beverages, excluding distilled spirits, by the package. Furthermore, the filling of Growlers by means of tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26. The term 'Growler' shall mean a glass bottle not to exceed 64 ounces that is filled by a licensee or employee of a package outlet with beer from a keg. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Only professionally sanitized and sealed Growlers may be filled and made available for retail sale. Every customer who purchases a Growler shall, at the time of the purchase, be provided written documentation by the licensee regarding the open containers laws of the state and City of Cartersville.(Amend. 12-1-12)

Section 4-19. Distilled spirits purchases to be from licensed wholesalers.

No pouring licensee shall buy or arrange to buy nor in any way may affect the transfer of any distilled spirits except from a licensed wholesaler.

Section 4-20. Prohibited Products.

No license holder under this Chapter shall sell, offer for sale, display, lend, rent, lease, give, exchange, keep in stock, possess with intent to sell, or otherwise distribute to any person, at any place of business licensed hereunder any of the following products:

(a) Any "drug paraphernalia" or "drug related object" as defined by O.C.G.A. § 16-13-32 (a)(1), which states:

"(1) 'Drug related object' means any instrument, devise, or object which is designed, marketed as useful primarily for one or more of the following purposes:

(A) To inject, ingest, inhale or otherwise introduce marijuana or a controlled substance into the human body;

(B) To enhance the effect of marijuana or a controlled substance on the human body;

(C) To test the strength, effectiveness, or purity of marijuana or a controlled substance;

(D) To process or prepare marijuana or a controlled substance for introduction into the human body;

(E) To conceal any quantity of marijuana or a controlled substance; or

(F) To contain or hold marijuana or a controlled substance while it is being introduced into the human body."

(b) Any "drug paraphernalia" or "drug related object" which are further defined as including, but not limited to, objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana or a controlled substance into the human body, such as:

- (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (B) Water pipes;
- (C) Carburetion tubes and devices;
- (D) Smoking and carburetion masks;
- (E) Roach clips; meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (F) Miniature cocaine spoons and cocaine vials;
- (G) Chamber pipes;
- (H) Carburetor pipes;
- (I) Electric pipes;
- (J) Air-driven pipes;
- (K) Chillums;
- (L) Bongs; and
- (M) Ice pipes or chillers.

Section 4-21. Purchase by or sales to underaged persons.

(a) No license holder and/or employee of a package outlet, pouring outlet, or other licensed establishment shall knowingly furnish, sell or offer for sale any malt beverages, wine or distilled spirits to a person under twenty-one (21) years of age. This prohibition shall not apply with respect to the sale of any malt beverages, wine or distilled spirits to a person when such person has furnished proper identification showing that the person to whom the malt beverages, wine and distilled spirits are being sold is twenty-one (21) years of age or older. In this subsection, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph or both, and giving such person's date of birth, including, but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the state department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. "Proper identification" does not include a birth certificate.

(b) Subsection (a) shall not apply to the following:

- (1) Whenever a malt beverage, wine or distilled spirits is purchased for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the state;
- (2) Whenever malt beverages or wine are purchased for consumption at a religious ceremony.

(c) The licensee shall post in the most conspicuous place in his establishment a sign for each license printed in letters at least four (4) inches high containing the following language for each license issued.

"SALE OF MALT BEVERAGES, WINE OR DISTILLED SPIRITS
TO MINORS
STRICTLY PROHIBITED."

(d) It shall be unlawful for any minor to falsely misrepresent his age in any manner whatsoever. It shall be unlawful for any minor to drink, or possess any alcoholic beverages, except as stated in subsection (a) of this section, or except as provided in O.C.G.A. section 3-3-23.

(e) The municipal court, in accordance with O.C.G.A. section 36-32-10, is granted jurisdiction to try and dispose of a first offense violation of O.C.G.A. section 3-3-23, relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under twenty-one (21) years of age, if the offense occurred within the corporate limits of the city. O.C.G.A. section 36-32-10 is incorporated herein by reference.

Section 4-22. Smoking.

Any violation of the Georgia Smokefree Air Act of 2005, O.C.G.A. § Title 16, Chapter 12 shall be grounds for suspension or revocation of any license issued under this Chapter.

Section 4-23 Enforcement.

(a) Police may conduct periodic enforcement checks of all licensed establishments. Such check may include but not be limited to:

- (1) Surveillance by plainclothes and/or uniformed officers to confirm compliance with state law and city ordinance.
- (2) Purchase of alcoholic beverages by a young adult (21 years of age or older) to determine if identification is being checked to confirm legal age.
- (3) Attempted purchase of alcoholic beverages by a minor (20 years of age or younger) to ensure compliance with state laws and city ordinances.

(b) Based on the results of the checks, the police chief may conclude that employees of the licensee are not following proper alcoholic beverage sales procedures to ensure compliance with the law and/or do not possess adequate knowledge of the law. When this is the case, the police chief shall ensure that a follow-up check is conducted within 30 days.

(c) The police chief shall forward to the Alcohol Control a report of each enforcement check containing the details of the check, to include sales procedures, identification card checks, etc. Based on the report, the Alcohol Control Board will either:

- (1) Meet with the licensee and/or license representative to discuss the report and necessary corrective actions. A copy of the report shall be provided to the licensee and also a copy retained in the licensee's official city file.
- (2) Forward a congratulatory letter to the licensee advising that there appears to be an effective alcoholic beverage sales program in place based on the

police enforcement check report. A copy of the letter shall be retained in the licensee's official city file.”

Section 4-24 Prohibited Acts

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.
- (b) No licensee shall permit on the licensed premises any: disorderly conduct; breach of the peace; lewd, immoral or improper entertainment, conduct, or practices; or noise which is disturbing to the surrounding neighborhood.

Division 3. Taxes.

Section 4-25. Distilled spirits excise tax.

There is hereby levied an excise tax computed at the rate of twenty-two cents (\$.22) per liter which shall be paid to the mayor and city council on all distilled spirits sold in the city. Such tax shall be paid to the governing authority by the wholesaler on all distilled spirits sold to retail dealers in the city as follows:

(1) Each wholesaler selling, shipping, or in any way delivering distilled spirits to any retail dealer, shall collect the excise tax at the time of delivery to each retail dealer on or before the tenth day of the month following.

(2) The twenty-two cents (\$.22) per liter rate shall be prorated so that all containers of distilled spirits shall be taxed on the basis of twenty-two cents (\$.22) per liter. It shall be unlawful for any wholesaler to sell, ship or deliver in any manner any distilled spirits to a retail dealer without collecting the tax. It shall be unlawful for any retail dealer to possess, own, hold, store, display, or sell any distilled spirits on which such tax has not been paid.

(b) In addition, there is hereby an excise tax computed at the rate of three (3) percent of the charge to the public on sales of distilled spirits by the drink made by pouring outlets. This tax shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage. Such tax shall be paid to the governing authority by the pouring licensee on all distilled spirits sold to customers by the drink in the city on or before the tenth day of the month following such sales. It shall be unlawful for any pouring licensee to fail to pay such excise tax. Pouring licensees collecting the excise tax authorized in this subsection shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deduction from state tax under O.C.G.A. Title 48, Ch. 8 [section 48-8-1 et seq.].

Section 4-26. Malt beverage excise taxes.

(a) Except as provided in subsection (b), there is hereby levied and imposed upon each wholesale dealer selling malt beverages within the city, an excise tax in the

amount of 0.4166 (\$0.004166) cents per ounce of malt beverages sold by such wholesale dealer within the corporate limits of the city.

(b) Malt beverages sold in or from a barrel or bulk container, and commonly known as tap or draft beer, shall not be subject to the excise tax provided in subsection (a); but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15 1/2) gallons sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof.

(c) The excise taxes provided for in this section shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale, within the corporate limits of the city.

(d) Failure to make a timely remittance of the taxes imposed in this section shall render a wholesale dealer liable for a penalty equal to twenty-five (25) percent of the total amount due during the first thirty-day period following the date such remittance was due and a further penalty of one (1) percent of the total amount due for each successive thirty-day period or any portion thereof, during which such remittance is not filed. The filing of a false or fraudulent report required by state law shall render the wholesale dealer making such report liable for a penalty equal to fifty (50) percent of the amount of the remittance which would be required under an accurate and truthful report.

(e) Failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license issued by the city to the wholesale dealer.

Section 4-27. Wine excise tax.

(a) In addition to the annual retail wine license fee required, there is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter on all wine sold, displayed, or stored in the city. Such tax shall be prorated on miniatures, half-pints, fifths, half-gallons, and other quantities, so that each bottle shall be taxed on the basis of twenty-two cents (\$0.22) per liter.

(b) The tax shall be paid to the city by each wholesale distributor on all wine sold to retailers in the city as follows: Each wholesale distributor selling, shipping or in any way delivering wine to any such retailer shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.

(c) Each wholesale distributor shall furnish to the city a summary of all purchase invoices for wine sold to each retailer in the city on or before the tenth of each month following such purchases. The invoices shall show the amount of excise tax paid.

(d) The city shall have the right to audit, and to require production of records from, each wholesaler supplying retailers in the city and each retailer so supplied.

Secs. 4-28--4-29. Reserved.

ARTICLE II. LICENSING REQUIREMENTS

DIVISION 1. In General

Section 4-31. Generally.

The provisions of this Article are applicable to all establishments which are licensed to sell or serve alcoholic beverages, malt beverages, wine or distilled spirits either by package or pouring.

Section 4-32. Required.

(a) It shall be unlawful to sell, store or offer to sell at wholesale or retail, or to pour or offer to pour any wine or malt beverages within the corporate limits of the city without having the appropriate license for such sale, or to carry on such activity in violation of the terms of such license.

(b) A separate license shall be required for each malt beverages package outlet, wine package outlet, and pouring outlet; and separate application shall be made for each outlet; provided, however, that the holder of a combination malt beverages and wine package license may sell both malt beverages and wine at the same outlet.

(c) The businesses of manufacturing, distributing, selling, handling and otherwise dealing in or possessing alcoholic beverages are declared to be privileges and not rights; and such privileges shall not be exercised in the city except as licensed under the terms of this article. A separate retail package store license shall be required for each place of business.

(d) The businesses of selling by the drink, pouring, allowing consumption on the premises and otherwise dealing in or possessing distilled spirits are declared to be privileged and not rights; and such privileges shall not be exercised in the city except as licensed under the terms of this article. A separate pouring license shall be required for each place of business.

Section 4-33. Classification, Fees, and Terms.

Licenses under this division shall be classified as follows:

(1) *Retail malt beverages package.* A retail package license shall permit only the sale of malt beverages in packages at retail, and not for consumption on the premises.

The fee for such licenses shall be five hundred dollars (\$500.00).

(2) *Retail wine package.* A retail wine package license shall permit only the sale of wine in packages at retail, and not for consumption on the premises. The fee for such license shall be four hundred dollars (\$400.00).

(3) *Retail malt beverages and wine package.* A retail license shall permit only the sale of wine in packages and malt beverages in packages at retail, and not for consumption on the premises. The fee for such license shall be nine hundred dollars (\$900.00).

(4) *Pouring license.* A pouring license shall permit the sale of wine or malt beverages, both by the drink for consumption on the premises of a pouring outlet. The fee for such licenses shall be nine hundred dollars (\$900.00).

(5) *Wholesale wine.* A wholesale wine license shall permit only the sale of wine at wholesale. The fee for such licenses shall be two hundred dollars (\$200.00).

(6) *Wholesale malt beverage.* A wholesale malt beverage license shall permit only the sale of malt beverages at wholesale. The fee for such licenses shall be one hundred dollars (\$100.00).

(7) *Distilled spirits package.* The annual fee for a distilled spirits package license shall be five thousand dollars(\$ 5,000.00) per annum and shall be paid prior to the issuance of such license.

(8) *Distilled spirits pouring.* The annual fee for a distilled spirits pouring licenses shall be one thousand five hundred dollars (\$1,500.00) per annum and shall be paid prior to the issuance of such license. The fee shall accompany the application and shall be either in cash or check.

(9) *Refund.* There shall be no refund of license fees to licensees who close their licensed business during a calendar year.

(10) *Term.* Any license issued pursuant to this Chapter shall be valid only for the calendar year indicated thereon and no such licenses may be renewed without the licensee filing a renewal application with the City as provided for in this Chapter.

(11) *Fees.* All fees shall accompany the application and shall be either in cash or check.

(12) *Proration.* There shall be no proration of fees for a license.

(13) *Sunday Sales.* The annual fee for a Sunday Sales License shall be \$300.00 per annum and shall be paid prior to the issuance of such license. The fee shall accompany the application and shall be either in cash or check. For any licenses issued for the calendar year of 2008, the fee shall be \$50.00 as said licenses shall only be effective from until December 31, 2008.”

Section 4-34 Automatic Revocation of License.

A license shall be automatically revoked by operation of law if:

- (a) The licensee’s state alcoholic beverage license is revoked.
- (b) Operation of the licensed activity is not commenced within nine (9) months after the license is issued;
- (c) Operation of the licensed activity is commenced and then voluntarily suspended for a period of thirty (30) days or more;
- (d) The licensed business fails to properly account for and pay any excise tax levied under this chapter.

“Sec. 4-35. Sunday License.

A Sunday Sales License is required for the sale of alcoholic beverages on Sundays. The following conditions are applicable to such sales:

(1) The establishment holds a valid City distilled spirits pouring and/or malt beverage and wine pouring license.

(2) Alcoholic beverages may be sold and served for consumption on the premises on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, and in any licensed establishment which derives at least 50%

of its total annual gross revenues from the rental of rooms for overnight lodging; and must qualify as a restaurant or hotel with valid unlimited health permit.

(3) Applicants for Sunday Sales License shall complete an application form furnished by the Planning and Development Office, supplying such information as may be requested. Prior to issuance of the license, the applicant must make available records for determining whether the applicant meets the requirements of subsection (2) of this section. After the license is issued the license may be denied or revoked by the Planning and Development Director for failure to conform or failure to produce satisfactory evidence of conforming. The Director of Planning and Development or his designee shall review the gross income figures from each establishment in their annual report or at any other time as requested to determine the licensee compliance and eligibility for a Sunday Sales License. The City shall have ten (10) business days to determine if the application qualifies for Sunday sales. If the applicant qualifies, a license shall be issued, if not the license shall be denied and said applicant may appeal as provided for herein. The decision of the Planning and Development Director may be appealed to the Mayor and City Council in the same manner as appeals from the Alcohol Control Board as provided for in Sec. 4-209(e)(3).

(4) Annual Sunday Sales License renewals shall be made in the same manner and during the same time periods as other distilled spirits and/or malt beverage and wine pouring license renewals, with the exception that the license is approved or denied by the Planning and Development Director.

(5) A Sunday Sales License is not transferable.

(6) The fee for issuance of the Sunday Sales License may be established and/or changed from time to time by the Mayor and City Council, and a schedule of fees shall be part of the City of Cartersville Code of Ordinances and shall be available in the offices of the Planning and Development Department.

(7) The Sunday Sales License shall be subject to the revocation and suspension procedures and shall be automatically revoked or suspended if the distilled spirits pouring and/or malt beverage and wine pouring license is revoked or suspended.

(8) When any application for a Sunday Sales License has been denied for location, no application for a Sunday Sales License may be made for the same location for a period of 12 months from the date of filing of the application which was denied.

Section 4-36 – 4-49 Reserved

Division 2. Application and Issuance.

Section 4-50. Application.

(a) Application for a license shall be made on forms furnished by the Alcohol Control Board and all requested information thereon shall be provided or to be provided

to the state department of revenue to obtain a state license. All applications shall be presented in person to Director of Planning and Development or his designee. (Amend. 3/18/10)

(b) Each applicant shall furnish a complete set of fingerprints which shall be forwarded to the state bureau of investigation who shall search the files of the state crime information center for a period of ten (10) years immediately preceding the date of such application for any instance of criminal activity. The state bureau of investigation shall also submit such fingerprints to the Federal Bureau of Investigation under rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the Alcohol Control Board. (Amend. 3/18/10)

(c) Each new applicant (not renewal) shall pay an investigation fee of two hundred thirty dollars (\$230.00) at the time of filing the application for a license which includes an inspection fee of \$30.00 assessed on applications to provide for the inspection by the City of Cartersville Police Department pursuant to Section 4-55 of the City of Cartersville Code of Ordinances, however in years in which the Applicant has paid the inspection fee required by Section 10-73, this fee shall be waived. (Amend. 3/18/10)

(d) An application filed and submitted before containing substantially all the information required may be rejected by the Alcohol Control Board, and the applicant may not refile for a period of ninety (90) days. (Amend. 3/18/10)

(e) It shall be unlawful for any person to file an application for a license, or permit his name to be used in such application, where the application contains a nominal applicant for the purpose of avoiding the provisions of this division restricting applicants to persons of good character and without criminal records, or restricting economic interests in retail package stores, or for elusive purposes. It shall be unlawful for any person to permit his name to be used in an application for a license where such person will not be the de facto owner of the license. It shall be unlawful for any person to file an application for license containing his name as applicant when such person is not the de facto applicant. It shall be unlawful for any person to file, or permit to be filed, an application for a license wherein a sham applicant is named.

(f) An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license applied for.

(g) The license applicant shall make a sworn statement of his qualifications according to this division and shall place same on file with the Director of Planning and Development before any license is issued.

(h) If the Alcohol Control Board approves the application, the Director of Planning and Development shall issue an annual retail license to the applicant upon the payment of the license fee. (Amend. 3/18/10)

(i) A copy of this chapter shall be given to all applicants for license upon their filing their applications with the Director of Planning and Development.

(j) The Alcohol Control Board in making its determination on an application, shall be guided by the following factors as to whether or not to issue or deny a license under this division: (Amend. 3/18/10)

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominately residential, industrial or business.

(2) The proximity of churches, hospitals, schools, college campuses, public libraries, public parks and playgrounds, private residences and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.

(5) The criminal record of the applicant and the outlet manager and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.

(6) A report of the chief of police, the building inspector, the fire marshal, and the traffic engineer.

(7) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and legal matters have been met.

(8) Evidence presented to the commission for or against the application.

(9) Whether or not the granting of the application is in the interest of the city.

(10) Whether any license for sale or beer or wine or alcohol previously issued for the location has been revoked for cause by the Alcohol Control Board. (Amend. 3/18/10)

(11) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the City.

(12) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.

(13) Compliance with the requirements of this chapter and the provisions of the City of Cartersville Code of Ordinances.

Section 4-51. Contact Person.

All license holders under this chapter must provide an individual to be designated the "contact person" who is a Bartow County resident for all licenses issued pursuant to this chapter as follows:

(1) If the license holder is a Bartow County resident, then said license holder shall be the contact person;

(2) The contact person shall be the individual upon who all notices and violations are to be provided to if not the license holder.

(3) If the license holder is not a Bartow County resident, the license holder must designate one (1) employee officer, property owner or Lessor of the location, or an attorney who is a Bartow County resident as the contact person;

(4) If the contact person ceases to become employed at the licensed establishment, then the license holder must within three (3) business days notify the director of community development for the city and a new contact person must be employed, named and appointed by the license holder within ten (10) business days from the previous contact person's termination of employment;

(5) A contact person is subject to all provisions of this chapter;

(6) The license holder must in writing designate the contact person on the forms provided by the community development department upon initial application, renewals and/or changes in the contact person;

(7) All service of notices and/or violations required by this chapter may be made to the contact person in lieu of the license holder for the purposes of this chapter. The license holder shall be responsible for any service of any notice to the contact person and for any and all actions requested;

(8) If at any time, an establishment licensed under this chapter does not have a contact person except as provided for in paragraph (4) herein, then said establishment cannot sell alcoholic beverages, and must immediately cease the sale of all alcoholic beverages and post a notice on the premises on all doors open to the public, until a new contact person has been designated;

(9) If a licensee operates an establishment without a contact person, except as provided for in paragraph (4), then said licensee is subject to the suspension and revocation of his license as provided for in this chapter for all violations of this chapter;

(10) All contact persons must be at least twenty-one (21) years of age.

(11) Required information with applications submitted pursuant to this chapter for a contact person shall be as follows:

(a) The following identification items shall be presented to the Cartersville Police Department prior to an application being filed for all contact persons for all licenses issued pursuant to this chapter:

(1) Naturalization documents or valid passport or birth certificate;

(2) Valid driver's licenses or valid state identification card;

(3) Social security card or work visa;

(b) The Cartersville Police Department shall issue a certificate of compliance that all information is complete prior to the department of community development accepting an application for review.

(c) If the certificate of compliance is not issued, the department of community development is not authorized to accept an application.

(d) A contact person under this division must be and continue to be a person of good moral character, a resident of the United States for a period of at least two (2) years, and

must meet the following additional qualifications, which shall be required during the entire period that he/she is the designated contact person.

(1) The contact person shall not have been convicted, within ten (10) years of the date of his application, of a felony or any violation of the laws of this state or any other state relating to the sale of distilled spirits, alcoholic liquor, malt beverages or wine.

(2) The contact person shall not have had revoked, for cause, such as a violation of regulations or improper operation, within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell distilled spirits, alcoholic liquor or malt beverages. This subsection shall not apply to any licenses heretofore revoked by this city.

(3) The contact person shall make a sworn statement of his qualifications under paragraphs (1) and (2) and shall place it on file with the Alcohol Control Board before any license is issued. Any misstatement or concealment of fact in the application shall be grounds for revocation of the license issued and shall make the contact person liable to prosecution for perjury under the laws of the state.

(4) The contact person must not have any past due city taxes, bills, fees, assessments or any other charges.

(5) A violation of any of the above qualifications and restrictions shall be grounds for suspension or revocation of the license issued.

(6) The contact person must be a resident of Bartow County, Georgia.

(7) Each contact person's application must include three (3) letters of recommendation from residents of Bartow County.

Section 4-52. Training Requirements.

At the time of filing an application to sell distilled spirits and/or malt beverages and/or wine within the city, the application in addition to the other requirements of this chapter shall include a detail summary and plan of the training of all employees of the establishment or other individuals whom sell or distribute alcoholic beverages. Said plan shall include at a minimum the following information:

- (1) Description of training program and/or trainer including qualifications.
- (2) How often training required.
- (3) Requirements to pass training program.
- (4) Penalty for selling alcohol to minor by employer to employee.
- (5) Inspection policy.
- (6) Procedures required to check identification and to make sales.
- (7) Any other matters as required by the City of Cartersville Community

Development Department.

- (8) A copy of their training manual, if available.

Section 4-53. Investigation fee for multiple licenses.

When an applicant and/or transferee is making applications for more than one on-premises consumption (pouring) or off-premises consumption (package) license at the same location and at the same time, said applicant is only required to pay one (1) investigation fee as required herein, whichever investigation fee is highest for the licenses requested.

Sec. 4.54 Required identification information with applications submitted pursuant to this Chapter.

- a) The following identification items shall be presented to the Cartersville Police Department prior to an application or renewal being filed for all licenses issued pursuant to this Chapter.
 - 1) A picture identification being either a Naturalization documents, valid passport, valid driver's license or valid state identification card; and
 - 2) Social security number or work visa.
- b) The Cartersville Police Department shall issue a certificate of compliance that all information is complete prior to the Department of Community Development accepting an application for review.
- c) If the Certificate of Compliance is not issued, the Department of Planning and Development is not authorized to accept an application or renewal. (Amend. 8/16/12)

Section 4-55. Inspections.

An inspection of the business premises by the Cartersville Police Department shall be required prior to the issuance of any alcohol license pursuant to this chapter. The chief of police or his designee will inspect said premises and prepare a report to be submitted to the community development department. After a business license has been issued by the City of Cartersville a licensed retail dealer shall be open to inspection at any times by law enforcement officers or officials authorized by the chief of police, mayor and city council to conduct such inspections. This section is applicable to all establishments issued an alcohol license by the City.

Section 4-56. Limitations on issuance.

- (a) No person holding a package license for a particular location shall be granted a pouring license for the same location, or vice-versa.
- (b) No more than two (2) licenses shall be issued to any one (1) applicant, except an individual holding a pouring license at a specific location may hold both a pouring distilled spirits and pouring malt beverage and wine for said location..
- (c) The applicant must be present at the meeting of the Alcohol Control Board at which their application is considered. If the applicant is not present the Alcohol Control Board cannot consider the application and may table it until the next meeting or deny it which requires the applicant to resubmit and pay any required fees again (fees are not refunded if the application is denied). (Amend. 3/18/10)

Section 4-57. Issuance procedures and standards generally.

(a) A license application may be denied to any applicant for a license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

(b) No license shall be granted to any person, unless such person is at least twenty-one (21) years of age.

(c) No employee or elected official of the city or county shall be eligible to receive a license. An employee or elected official of the city or county does not include individuals whose only relationship with the city or county is on an uncompensated volunteer basis or as an appointed member of any board, authority, commission or organization which is a part of or is related to the city or county.

(d) The following standards shall be applied to all decisions as to the issuance or denial of licenses:

(1) Alcohol Control Board, or staff may require all applicants to provide financial statements and other evidence of financial responsibility in conjunction with the application. (Amend. 3/18/10)

(2) All applicants for a license must be of good character, and all operators, managers, clerks, or other employees shall be of like character.

(3) No license shall be granted to an applicant who has been convicted under any federal, state, or local law for a criminal offense involving alcoholic beverages, gambling, or tax law violations or any felony involving moral turpitude if such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal or state laws or the laws of the city within the last ten (10) years.

(4) No license shall be granted to any applicant who is not the owner of at least fifty-one-percent of the retail package store for which the application for a license is being made.

(5) No licenses shall be issued to corporations, limited liability partnerships, and limited liability companies.

(6) No licenses shall be issued to partnerships, but a license may be issued to an individual partner who owns a fifty-one (51) percent interest in the retail package store for which the application is being made, if all other partners or persons owning an interest therein comply with and meet all the qualifications (other than owning fifty-one (51) percent) in this article for applicants.

(7) No license shall be issued to any applicant who has had any license for the sale of beer, wine, distilled spirits and/or alcoholic beverages previously issued to the applicant revoked for cause within three (3) years.

(e) Approval of an application shall expire after ninety (90) days from the date of such approval, unless the applicant has procured, and paid the fee for the approved license. The Alcohol Control Board may extend the approval up to ninety (90) days for cause, provided the request therefore is made within the original ninety (90) days. (Amend. 3/18/10)

(f) No applicant may submit, and the mayor and city council and/or alcohol control board shall not act upon an application which is substantially the same as an application submitted within the previous six (6) months, unless the Alcohol Control Board exercises its discretion to do so. (Amend. 3/18/10)

(g) The Alcohol Control Board may defer action upon any application, the subject matter of which is substantially the same as the subject matter of litigation then

pending in the state or federal courts until such time as the litigation is resolved. (Amend. 3/18/10)

(h) Whenever the Alcohol Control Board shall deny an application for a license, the applicant shall have fifteen (15) days following notification of denial to request a hearing before the Mayor and City Council. The applicant shall be entitled at such hearing to present evidence and cross-examine opposing witnesses present at the hearing; and said hearing shall be conducted as provided for in Section 4-209 of this Chapter. (Amend. 3/18/101)

(i) The applicant must be present at the meeting of the Alcohol Control Board at which their application is considered. If the applicant is not present the Alcohol Control Board cannot consider the application and may table it until the next meeting or deny it which requires the applicant to resubmit and pay any required fees again (fees are not refunded if the application is denied). (Amend. 3/18/10)

(j) The Alcohol Control Board in making its determination on an application, shall be guided by the following factors as to whether or not to issue or deny a license under this division: (Amend. 3/18/10)

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominately residential, industrial or business.
- (2) The proximity of churches, hospitals, schools, college campuses, public libraries, public parks and playgrounds, private residences and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
- (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (5) The criminal record of the applicant and the outlet manager and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
- (6) A report of the chief of police, the building inspector, the fire marshal, and the traffic engineer.
- (7) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and legal matters have been met.
- (8) Evidence presented to the commission for or against the application.
- (9) Whether or not the granting of the application is in the interest of the city.
- (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has been revoked for cause by the alcohol control board.
- (11) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the city.

- (12) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.
- (13) Compliance with the requirements of this chapter and the provisions of the City of Cartersville Code of Ordinances.
- (14) If a licensee has failed to satisfy the criteria for obtaining a license to sell.
- (15) If a licensee, or such licensee's employee or agent, has violated any federal, state, or local laws of ordinances relating to the use and sale of drugs and alcoholic Beverages, and/or violent crimes.
- (16) When the continued operation of the licensed business is determined to be detrimental to the health safety, or welfare of the public.
- (17) The failure of the licensee or his employees to report immediately to the police department a known violation of law or municipal ordinances, breach of peace, disturbance or altercation occurring in or in the immediate proximity to the licensee's premises.
- (18) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises, including but not limited to adjacent parking lots or areas which may be lawfully used by patrons of the licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
- (19) Breach of the peace, disorderly conduct or altercations and in incidents involving breach of peace, disorderly conduct, or altercations, the following additional factors shall be considered.
 - (i) The facts and circumstances of the incident.
 - (ii) The parties involved.
 - (iii) The criminal history of the parties, if any.
 - (iv) Damage to persons and property.
 - (v) Intoxication levels of individuals involved.
 - (vi) Conduct of employees and licensee in regards to said incident and involvement.
 - (vii) Mitigating circumstances.

Section 4-58. Qualifications.

A licensee under this division must be and continue to be a person of good moral character, a resident of the United States for a period of at least two (2) years, and must meet the following additional qualifications, which shall be required during the entire period that the licensee shall hold the license.

(1) The applicant shall not have had revoked, for cause, such as a violation of regulations or improper operation, within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell distilled spirits, alcoholic liquor or malt beverages. This subsection shall not apply to any licenses heretofore revoked by this city.

(2) The applicant shall make a sworn statement of his qualifications under paragraphs (1) and (2) and shall place it on file with the Alcohol Control Board before any license is issued. If the application covers a partnership, each member of the

partnership must be qualified under paragraphs (1) and (2) to obtain a license and must make a sworn statement of those qualifications. Any misstatement or concealment of fact in the application shall be grounds for revocation of the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state.

(3) The applicant may not employ any person who has been convicted of a felony within the past five (5) years or who has been convicted or has a case pending for a crime involving the possession or sale of distilled spirits, malt beverages or intoxicating wines or liquors.

(4) The applicant must not have any past due city taxes, bills, fees, assessments or any other charges.

(5) A violation of any of the above qualifications and restrictions shall be grounds for suspension or revocation of the license issued.

Section 4-59. Pouring licenses limited to certain establishments.

No application for a pouring license shall be considered from, and no license shall be granted to an applicant whose premises for a pouring outlet is anything other than a restaurant, hotel, motel, private club, lounge, retail cigar shop as defined in this chapter. It is the intention of this division that wine and malt beverages for consumption on the premises be sold only at bona fide restaurants, hotels, motels, private clubs, and retail cigar shops under the restrictions herein set out, and not at walk-in bars or sham establishments.

A. Hotel or motel as specifically defined in this Code, means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, and whether conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel or motel operation:

- (1) Which maintains fifty (50) or more rooms used for the sleeping accommodations of such guests;
- (2) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required therein;
- (3) Which operates one (1) or more public dining rooms (excluding banquet rooms) with a combined seating capacity of at least fifty (50), where meals are regularly served to guests; provided, that, consistent with the definition of lounge, in no event shall the seating capacity of the lounge exceed that of the public dining rooms;
- (4) Which employs sufficient personnel to serve food as required herein;
- (5) Which derives at least forty-five (45) percent of its gross income from the sale of such meals prepared, served and consumed on the premises. Cover charges can not be included in determination of gross income from food sales. The Director of Planning and Development or his/her designee shall

review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the Director of Planning and Development or his/her designee, and determine if the annual sales meet the required ratio and make the appropriate recommendations to the Alcohol Control Board. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant in their premises and the holder of such franchise shall be included in the definition of hotel. (Amend. 3/18/10)

- (6) All restaurants must include a kitchen built to commercial kitchen standards which include at a minimum:
- a. A three-compartment sink with drainboards is required for all restaurants. The size of the sink compartments is determined by your type of operation. You must be able to immerse your largest piece of equipment or utensils to be washed in each compartment. Sink compartments in most establishments may not be smaller than fifteen inches by eighteen inches (15" x 18").
 - b. A handsink is required in all food preparation and toilet room.
 - c. If your operation requires washing of vegetables and meats, or, thawing food under water, a food preparation sink will be required. This sink must have an indirect sewer connection.
 - d. A mop sink or wash area is required for all restaurants.
 - e. Adequate refrigeration must be provided.
 - f. Adequate and approved work surface must be provided.
 - g. All rooms shall have sufficient mechanical ventilation to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Hoods and ventilation equipment must be approved by the building officials and the fire department in addition to the health department.
 - h. A commercial stove, oven, grill and/or range.

B. Restaurant as specifically defined in this Code, means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations:

- (1) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required in this article;
- (2) Which provides a regular seating capacity for at least fifty (50) persons; provided, that consistent with the definition of lounge, in no event shall the seating capacity of the lounge exceed that of its connected restaurant;
- (3) Which employs sufficient personnel to serve food as required herein;
- (4) Which serves at least one (1) meal per day at least five (5) days per week (with the exception of holidays, vacations, and period of redecorating) and

said meal must be served from 11:30 a.m. to 1:30 p.m. or 10:00 p.m. to 9:00 p.m. every day the establishment is open and hours of operation must be posted on the front door of the premises. (Amend. 6/3/10)

- (5) Which derives at least forty-five (45) percent of its gross income from the sale of such meals prepared, served and consumed on the premises. Cover charges can not be included in determination of gross income from food sales. The Director of Planning and Development or his designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the Director of Planning and Development or his designee, and determine if the annual sales meet the required ratio and make appropriate recommendations to the mayor and city council. (Amend. 3/18/10)
- (6) All restaurants must include a kitchen built to commercial kitchen standards which include at a minimum: (Amend. 3/18/10)
 - a. A three-compartment sink with drainboards is required for all restaurants. The size of the sink compartments is determined by your type of operation. You must be able to immerse your largest piece of equipment or utensils to be washed in each compartment. Sink compartments in most establishments may not be smaller than fifteen inches by eighteen inches (15" x 18").
 - b. A handsink is required in all food preparation and toilet room.
 - c. If your operation requires washing of vegetables and meats, or, thawing food under water, a food preparation sink will be required. This sink must have an indirect sewer connection.
 - d. A mop sink or wash area is required for all restaurants.
 - e. Adequate refrigeration must be provided.
 - f. Adequate and approved work surface must be provided.
 - g. All rooms shall have sufficient mechanical ventilation to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Hoods and ventilation equipment must be approved by the building officials and the fire department in addition to the health department.
 - h. A commercial stove, oven, grill and/or range.

C. Retail cigar shops as specifically defined in this Code, may be issued an on-premises consumption license for sales of beer, malt beverages, and wine, but not distilled spirits, without meeting the requirement that forty-five (45) percent of its gross annual sales be derived from the sale of prepared meals or food, provided that at least seventy percent (70%) of its gross annual sales be derived from the sale of full-sized, hand-rolled cigars, and expressly excluding from the calculation of gross annual sales the sale of cigarettes, bongs, bubblers, glass pipes, water pipes, Turkish pipes, pipe screens, pipe filters, dug-outs, stash boxes, rolling papers, rolling devices, rolling trays, grinders,

incense, pipe cleaners, and other smoking paraphernalia if allowed to be sold pursuant to the Ordinance. The Director of Planning and Development or his designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the Director of Planning and Development or his designee, and determine if the annual sales meet the required ratio and make appropriate recommendations to the Alcohol Control Board. (Amend. 3/18/10)

- (1) In regards to seating, parking and occupancy requirements, those applicable to the Cigar Store shall supersede those listed in Chapter 4.

Section 4-60. Wholesale.

Any wholesaler of malt beverages or wine licensed by the state or the agent of such wholesale dealer may be granted a license to distribute such beverages in the city upon application for such license to the director of community development and the presentation of evidence that he understands this chapter and the conditions under which retail licenses are issued.

Section 4-61– 4-74. Reserved.

DIVISION 3. LICENSE

Section 4-75. Display

Licenses issued under this division shall be displayed prominently at all times on the premises for which same was issued.

Section 4-76. Licensees to keep copy of Chapter on premises; employees to be familiar with terms; responsibility of licensee for violations.

Each licensee hereunder shall keep a copy of this Chapter in the licensed premises and shall instruct any person working there with respect to the terms hereof and each licensee, the licensee's agents and employees selling distilled spirits, malt beverage and wine shall at all times be familiar with the terms hereof. The licensee shall be responsible for any acts of agents or employees which are in violation of this article or of the laws of the state or the rules and regulations of the state revenue commissioner.

Section 4-77. Terms and conditions; duties of holders.

(a) A license issued under this article shall be subject to all terms and conditions imposed by this chapter or any future ordinance. License holders shall be responsible for compliance with such terms and conditions by all their employees and those working under their supervision and control. It shall also be the duty of the license holder and those under his supervision and control to report to the police department any violation of this chapter occurring on the premises of the license holder.

(b) All licenses shall have printed on the front the following language: "This license is granted by the City of Cartersville and accepted by licensee subject to all of the terms and conditions of the ordinances governing the issuance and retention of the same." (Amend. 3/18/10)

Section 4-78. No refund upon revocation.

In case of revocation, the licensee shall not be entitled to a refund of any license fee paid.

Section 4-79. Reinstatement of suspended licenses.

(a) Licenses suspended for a definite period shall be automatically reinstated without further hearing.

(b) Licenses suspended pending compliance with designated conditions to be corrected shall be automatically reinstated upon compliance, without further hearing.

Section 4-80. Surrender upon sale or closing of outlet.

Immediately upon the sale or closing of an outlet licensed under this division, the licensee shall surrender his license to the director of community development.

Section 4-81. Licensee to report and obtain approval for changes in information provided.

Licensee shall make immediate report to, and receive approval by, the alcohol control board of any change in the interests in or ownership of the licensed establishment, realty or lease and any change in the information as stated in the original application for license.

Section 4-82. Loss of qualifications.

In the event of death or termination or resignation of any employee or other person holding a license, there shall be a thirty-day grace period for the owner of the business engaging in the sale of distilled spirits or malt beverages and wine to obtain a recommendation from the alcohol control board and a new license and/or approval of a transfer from the Alcohol Control Board. (Amend. 3/18/10)

Section 4-84. Limitations on transfer.

- a) No license shall be transferable or assignable to any other person, except as stated in this division. If a licensed business is sold or closed, the licensee shall immediately surrender the license to the Alcohol Control Board. Any transfer of the license to a different premises requires the prior written approval of the Alcohol Control Board. (Amend. 3/18/10)
- b) Licenses issued pursuant to the provisions of this chapter shall not be transferable except as provided in this section.
- c) In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the governing authority and subject to the terms of this article, be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such heirs meet all of the other qualifications contained herein. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and dispose of the license or his interest therein, but in no event to exceed six (6) months.
- d) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership, when the partner owning a majority interest holds a license, to

- withdraw from the partnership and to assign his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this article are fully complied with, and then only upon the approval of the Alcohol Control Board. (Amend. 3/18/10)
- e) Should a transfer of the location be approved, there shall be no pro rata return of any license fee and the new location shall meet all requirements of a new license to be issued, except payment of license fee and investigation fee.
 - f) Licenses may be transferable upon approval of the transferee in accordance with this division as if the applicant was a new applicant, including the proposed transferee complying therewith, and the payment of ten (10) percent of amount of the license fee.
 - g) For Pouring Licenses only, if there is a change of managers, the license may be transferred subject to a new licensee paying a fee of \$100.00 and completing the application for the license holder and upon approval by the Alcohol Control Board. This is not applicable to license holders who are also owners of the establishment. (Amend. 9/06/12)

Section 4-85. Expiration and renewal.

(a) All licenses shall be issued on a calendar year basis and shall be renewable as a matter of course upon payment of the appropriate fee, on or before December 31 of each year, except as provided in subsection (d).

(b) The license fee shall be paid in full. A penalty of ten (10) percent of the amount of the annual license fee shall be assessed on any application for renewal filed after December 31.

(c) The Director of Planning and Development shall provide the Chief of Police with a list of current license holders prior to the annual renewal date. The Chief of Police shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.

(d) If the Chief reports any activity which constitutes probable cause for not renewing a license, the renewal shall not be made, and the matter shall be referred to the alcohol control board for its consideration.

(e) The Alcohol Control Board shall afford the licensee a public hearing, after reasonable notice, and may grant, deny for cause, or grant with conditions, the renewal of any license. (Amend. 3/18/10)

(f) The Alcohol Control Board on an application for renewal shall be guided by the same criticism and qualifications as for the issuance of the initial license. (Amend. 3/18/10)

Section 4-86 – 4-99 Reserved.

DIVISION 4. PREMISES RESTRICTIONS.

Section 4-100. Premises restrictions generally.

(a) No license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside

premises for new construction or renovation only are attached to the application, or unless proposed plans and specifications and a building permit for a proposed building to be built or renovated are attached to the application. The complete building or the proposed building shall comply with all ordinances of the city, regulations of the state revenue commissioner and the laws of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector.

(b) Each applicant applying for a license shall attach to his application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. No percentage leases of buildings or realty for pouring outlet stores shall be permitted.

(c) Unless otherwise provided by law, all measurements to determine distances, required by the city Code, for the issuance of city alcohol licenses, shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

(1) From the front door of the structure from which beverage alcohol is sold or offered for sale;

(2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;

(3) Along such public sidewalk, walkway, street, road or highway by the nearest route;

(4) To the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the appropriate statute or code.

Section 4-101. Lighting of building.

Each building in which distilled spirits, malt beverage and wine package, are sold at retail or pouring shall contain sufficient lighting so that the building itself and the premises on all outside exposed walls of the building are readily visible at all times from the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of the building.

Section 4-102. Parking Lots

(a) The parking area for any building in which distilled spirits, malt beverage and wine are sold at retail package or pouring shall be paved with concrete or asphalt and contain sufficient square footage and parking spaces as required by ordinance for retail commercial places of business.

Section 4-103. Advertising.

(a) No advertising of prices outside a retail package store in any manner whatsoever, including signs on the retail package store or store window shall be permitted.

(b) No advertising of prices of alcoholic beverages outside a pouring outlet in any manner whatsoever, including signs on the pouring outlet or window shall be permitted. No sign (advertising sale for consumption on the premises) exterior to the premises shall be permitted; provided, however, there shall be no prohibition against exterior signs showing the name of the pouring outlet, except no such name shall include

the words "beer", "wine", "liquor", "whiskey", "distilled spirits", "alcoholic beverages" or synonyms of these words.

Section 4-104. Storage of distilled spirits.

No licensed retailer shall keep any distilled spirits stored in any bonded or other type of warehouse in the city, nor shall he enter into any type of arrangement whereby distilled spirits ordered by him is stored for him by any licensed wholesaler. A retailer shall keep no inventory or stock of distilled spirits at any place except his licensed place of business, and within his licensed place of business his storage space for distilled spirits shall be immediately adjacent to the room in which he is licensed to do business.

Section 4-105. Consumption on premises

It shall be unlawful for anyone to open, drink or otherwise consume any wine or malt beverage or distilled spirits upon any premises, other than a pouring outlet or package wine outlet, wherein such beverages are sold under a license issued by the City. (Amend. 3-8-06)

Section 4-106. Consumption in other public places.

Nothing in this article shall be construed to permit consumption of any intoxicating beverages in any public place in the city other than within the definite, closed-in or partitioned location, whether room or building, wherein pouring takes place, except for permitted caterers, sidewalk cafes, or right-of-way cafes.

Section 4-107. Sale of alcoholic beverages other than distilled spirits.

A pouring licensee for the sale of distilled spirits by the drink on the premises shall also be allowed to sell, pour and serve malt beverages or wine, provided he shall secure and have a license therefore.

Section 4-108. Place of sale or delivery.

(a) No pouring license shall sell or deliver any alcoholic beverages for any reason except in the pouring outlet for consumption only on the premises, except pouring outlets located in hotels, which may serve guests in their rooms within the hotel premises if licensed by the state and patrons in banquet and/or conference rooms within the hotel premises, or permitted sidewalk or right-of-way cafes, or caterers.

(b) No drive-in windows or curbside service shall be permitted.

Section 4-109. Distance requirements.

(a) Pouring Outlet.

(1) No pouring license shall be granted to any person unless the front door of the premises of the proposed location is situated not less than one hundred (100) yards from any church building, not less than one hundred (100) yards from the property line of any school ground or college campus, and not less than one hundred (100) yards from any building used as an alcohol rehabilitation center, the same to be measured by the most direct route of travel on the ground; except as follows in paragraph (b) below.

(2) For any pouring license located in the central business district (being defined as its north boundary being two hundred (200) feet north of the north right of way of W. Church Street and E. Church Street, its west boundary being Bartow Street, its east boundary being Tennessee Street and its south boundary being Leake Street), the distance requirements in subsection (a) shall apply to all pouring establishments in the central business district, except that for a college or post-secondary institution the distance shall be one hundred and fifty (150) feet instead of one hundred (100) yards and said distance shall be measured as indicated in subsection (a) above.

(3) Each applicant for a pouring license shall include a scale drawing of the location of the proposed premises showing the distance to the nearest type of building and/or property lines of types of property referred to in subsection (a) and (b), or a certificate of a registered surveyor that such location complies with subsection (a) and

(b) Package Store.

(1) No retail dealer's license shall be granted to any person unless the front door of the premises of the proposed location is situated not less than one hundred (100) yards from any church building, not less than two hundred (200) yards from the property line of any school ground or college campus, and not less than one hundred (100) yards from any building used as an alcohol rehabilitation center. This distance shall be measured by the most direct route of travel on the ground.

(2) No retail dealer's license shall be granted to any person unless the front door of the premises of the proposed location is situated at least one hundred (100) yards from any building used as a girl's club, boy's club, Y.M.C.A., community center, Salvation Army Center, or public library, and at least one hundred (100) yards from the property line of any public park. This distance shall be measured by the most direct route of travel on the ground.

(3) No retail dealer's license shall be granted to any person for any proposed location of a retail package store which is within one hundred (100) feet of any private residence which is located within a nonresidential city zoning district. The distance shall be measured in all directions from the nearest wall enclosing the proposed premises where distilled spirits, malt beverages, or wine are to be sold to the nearest point of any residential property line within the city; provided, however, the distance from the rear of the premises of a licensee to the property line of any residence may be reduced to not less than fifty (50) feet, if the licensee installs and maintains a buffer in accordance with the City of Cartersville Zoning Ordinance Section 4.17 or fence not less than six (6) feet in height, nor more than eight (8) feet in height. The Zoning Administrator shall determine if a fence or planted buffer is appropriate in light of surrounding property and applicable zoning districts and standards. Once the Zoning Administrator has made his/her determination, the request is to be forwarded to the Alcohol Control Board for their review and approval, approval with conditions or rejection based on the following standards:

- i. Visual and lighting impact on surrounding properties
- ii. Surrounding property uses
- iii. Noise impact on surrounding properties

v. Location of dumpster's, loading areas, and drive and parking configuration.
(Amend. 2/18/10)

(4) No retail dealer's license shall be granted to any person for any proposed location of a retail package store which is within one hundred fifty (150) feet of any private residence, if such residence is located within a residential city zoning district. The distance shall be measured in all directions from the nearest wall enclosing the proposed premises where the distilled spirits are to be sold to the nearest point of any residential property line within the city.

(5) Each applicant for a retail dealer's license shall include a scale drawing of the location of the proposed premises showing the distance to the nearest type of building and/or property lines of types of property referred to in this section or a certificate of a registered surveyor that such location complies with this section.

(6) Unless otherwise provided by law, all measurements to determine distances, required by the City Code, for the issuance of city alcohol licenses, shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

(a) From the front door of the structure from which beverage alcohol is sold or offered for sale;

(b) In a straight line to the nearest public sidewalk, walkway, street, road or highway;

(c) Along such public sidewalk, walkway, street, road or highway by the nearest route;

(d) To the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the appropriate statute or code.

Section 4-110. Location restrictions.

No licensed establishment selling or distributing distilled spirits or malt beverages and wine shall be located within the city except in the zoning districts as designated by the City of Cartersville Zoning Ordinance.

Section 4-111. Entertainment.

(a) *Permitted.* Band or orchestras, single musical instrument and record playing machines for patron listening and patron dancing shall be permitted at pouring outlets:

(1) Where adequate space exists;

(2) Where an application has been filed and all terms of this ordinance have been complied with;

(3) Where all fire and safety regulations are met;

(4) Where the appropriate license fee has been fully paid;

(5) Where prior approval of the director of community development, (herein referred to as "director") is obtained.

(b) *Prior approval.* Prior approval may be given only after notice of dates, time, approximate number of guests expected, nature of musical sources and such other information as may be required is given in writing to the director.

(c) *Approval by director.* Where music or dancing is provided on a regular basis, the director may singly approve such regular basis, provided notice of any

substantial departure from such regular basis is given to the director. In all cases wherein music or dancing is provided on other than a regular basis or entertainment for each such occasion [approval] shall be obtained from the director.

(d) *Police attendance.* The director may require a pouring outlet providing such music and dancing to provide such police attendance and protection, in the opinion of the chief of police, is adequate to meet the need thereof.

(e) *Fraternization prohibited.* It shall be unlawful for any employer, performer, entertainer or contract artist of any business selling alcoholic beverages on premises to dance or sit with customers in the premises, or for any employee, performer, entertainer or contract artist to accept any food or drink purchased by a patron or customer, nor shall any such employee, performer, entertainer, or contract artist be permitted to participate with any customer in any recreational activity offered on the premises as indicated in the city adult entertainment ordinance.

(f) *Prohibited entertainment.* It shall be unlawful for any pouring licenses to permit professional belly dancers, strip dancing, wrestling, exotic dancing or any like kind by whatever name called in connection with the operation of a restaurant, lounge, or private club, as indicated in the city's adult entertainment ordinance, and all other entertainment activities unless specifically permitted by the City of Cartersville Code of Ordinances.

(g) *Application.* Application for entertainment permit, should include the following: (reference attached form (separate form can be used by existing businesses at later date).

(1) The name, residence and business address of the manager or person in charge.

(2) The dates upon which the entertainment is to be scheduled.

(3) Maximum capacity and seating capacity of building.

(4) The times at which entertainment is to begin and end.

(5) Current business licenses and pouring licenses numbers for existing businesses.

(6) The type of entertainment planned and number of entertainers.

(h) *Applications to director.* All applications should be presented to the director of community development. The director shall have ten (10) days to consider said application and investigate the application to determine its compliance with all applicable city ordinances.

(i) *Issuance or non-issuance of permit.* The director shall issue a permit to an applicant unless they find one or more of the following:

(1) An applicant is overdue in his payment to the city of taxes, fees, fines or penalties assessed against or imposed upon him.

(2) An applicant has failed to answer or falsely answered a question or request for information on the application form provided.

(3) An applicant has been convicted of a violation of a provision of this section within two (2) years immediately preceding the application.

(4) An applicant's premises have not been approved by the health department, fire department and the building department.

(5) An applicant has been convicted of within the last five (5) years:

a. Felony;

b. Misdemeanor involving:

1. Prostitution;
2. Public lewdness;
3. Gambling.

(6) The application must show adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security both inside and outside the premises.

(j) *Expiration of permit.*

(1) The permit for entertainment expires on the date indicated on said permit or upon the sale, transfer, or new ownership of the premises for which the permit is granted.

(2) Upon the applicant in whose name the original permit is issued leaving the business. The license may be transferred at no cost, if new applicant makes application and meets all the conditions of this section.

(k) *Revocation/suspension of a license.*

(1) The director of community development may, at any time, provide notice to the licensee of a suspension or revocation hearing of an entertainment permit whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

a. Failed to keep the building structures or equipment of the license premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances in a way which relates to or affects public health or safety on the entertainment permitted premises.

b. Failed to comply with the operating rules and regulations of entertainment permits specified in this section.

c. Whenever the city learns that the permittee made a material false statement or representation, or failed to disclose any material information to the city, in connection with any application for the entertainment permit or any permit renewal.

d. Whenever the permittee or any manager, officer, director, agent or employee of the permittee fails within a reasonable time to cure a condition that caused a permit suspension.

e. Whenever the permittee or any manager, officer, director, agent or employee of the permittee knowingly permits conduct on the permitted premises that violates any federal, state or city criminal or penal statute, law or ordinance.

f. Whenever operation of the entertainment permit becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.

(2) The suspension or revocation of a permit may be appealed to the alcohol control board under the procedures indicated in section 4-63, section 4-64, and section 4-65 of the Code.

(3) Such suspension or revocation shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that the same will not reoccur as determined by the director, or alcohol control board.

(l) *Nuisance, injunction.* Any violation of this ordinance is declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for any injunction to prohibit the continuation

of any violation of this section. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(m) *Penalty.* Any person, firm or corporation violating any provision of this article shall be fined up to one thousand dollars (\$1,000.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, and their license to sell alcoholic beverages may be suspended and/or revoked.

Section 4-112. Cameras for Malt Beverage Package Outlet

a.) Each outlet for the retail sale of malt beverages by the package shall install and maintain security cameras in the outlet of a type and number approved by the chief of police.

(1) Cameras shall be placed as follows:

(a) On the premises so as to record activities in the check out or cash register area(s), to include both customer and employee.

(b) On the premises so as to record all entrance and exit doors.

(2) All cameras shall be capable of producing a retrievable color image on digital film or tape that can be made a permanent record and enlarged through projection or other means.

(3) Such cameras shall be maintained in proper working order at all times and shall be subject to periodic inspection by the chief of police or his designee. If a sale of alcohol to a minor, robbery or other felony occurs in such outlet, the film or tape recording such event shall immediately be made available to the chief of police or his designee. All films, tapes or images required by this code section shall be retained by the outlet, in its original, viewable format, for a period of no less than thirty (30) days after recording.

(4) All cameras must be in working order and checked by the licensee on a weekly basis. A log of said checks and repairs, if any, are to be kept and Provided to the Cartersville Police Department on a quarterly basis. Additionally, said logs may be kept internally by the security camera, and if so, shall be made available for review by the Cartersville Police Department on a quarterly basis. (Amend. 6/3/10)

(b) The effective date for this ordinance shall be January 1, 2009, and as of said date, all newly licensed and existing licensed malt beverage package establishments must be in compliance with said provisions.

II.

Section 4-113 through 4-119- Reserved.

DIVISION 5. HOURS OF OPERATION

“Sec. 4-120. Pouring outlets.

The following provisions shall apply to pouring outlets:

(1) The building or proposed building where pouring will take place shall meet all requirements of the city building inspector.

(2) No percentage leases of buildings for pouring shall be permitted.

(3) No pouring shall be permitted between the hours of 1:30 a.m. Sunday and 12:30 p.m. Sunday, or between the hours of 12:30 a.m. and 10:00 a.m. Monday through Thursday and/or between the hours of 1:30 a.m. and 10:00 a.m. Friday and Saturday except as provided in subsection (9) herein. (Amend. 6/3/10)

(4) No wine or malt beverages or distilled spirits may be consumed on the premises of the pouring outlet between the hours of 2:00 a.m. Sunday and 12:30 p.m. Sunday, or between the hours of 12:30 a.m. and 10:00 a.m. Monday through Thursday and/or between the hours of 2:00 a.m. and 10:00 a.m. Friday and Saturday except as provided in subsection (9) here in. (Amend. 6/3/10)

(5) In no event shall wine or malt beverages or distilled spirits be sold or delivered during the prohibited hours, set forth in subsections (3) and (4), based upon any devise or scheme, including the timely sale of tickets, chits and decanters.

(6) It shall be unlawful to employ knowingly in any pouring outlet in any capacity whatsoever, including that of performer, entertainer or musician, any person who has pleaded guilty to or been convicted of any felony involving moral turpitude, or any crime relating to the manufacture or sale of intoxicating beverages within the last five (5) years.

(7) It shall be the duty of the management of a pouring outlet to maintain a copy of this division at the outlet and to instruct each employee on the terms thereof.

(8) As permitted by the City of Cartersville Code of Ordinances, outdoor pouring shall be allowed at sidewalk, or right-of-way cafes.

(9) On New Years Eve only, the pouring hours shall be extended to 1:00 a.m., and the hours of consumption shall be extended until 2:00 a.m.”

Section 4-121. Package Outlets.

(a) Distilled Spirits. No retailer shall be in his place of business, or open his place of business, or furnish, sell or offer for sale any distilled spirits at any of the following times:

- (1) At any time on Thanksgiving or Christmas Day; or
- (2) At any time in violation of an ordinance or regulation or of a special order of the mayor and city council; or
- (3) On Monday through Saturday before 8:00 a.m. or after 11:45 p.m.; or
- (4) On Sunday before 12:30 p.m. or after 11:30 p.m.

(b) Malt beverage and wine. It shall be unlawful for any person to sell or serve any malt beverage and wine at any of the following times:

- (1) At any time on Christmas Day; or
- (2) On Monday through Saturday prior to 8:00 a.m. or after 12:00 p.m.; or
- (3) On Sunday before 12:30 p.m. or after 11:30 p.m.

(4) Additionally, package wine outlets may not serve after 9:00 p.m. on any day (Amend. 12-1-11).

Section 4-122 – 4-129. Reserved.

DIVISION 6. SPECIAL EVENTS/NONPROFIT LICENSES

Sec. 4-130. Temporary permit for nonprofit or charitable organizations.

Temporary permits may be issued by the Alcohol Control Board to nonprofit or charitable organizations in accordance with the requirements specified herein as follows: (Amend. 3/18/10)

(1) The application shall comply in all respects with the requirements contained in this City Code Chapter of the City of Cartersville, and said application shall be processed in accordance with this Code and in the normal course of processing applications.

(2) The applicant must be a bona fide nonprofit corporation or charitable organization and must supply, with the original application, proof of its exempt status as granted by the Internal Revenue Service.

(3) The length of the temporary permit shall be the length of the event for which such permit is requested, or three (3) days, whichever is shorter. After the expiration of such period, the permit shall expire. The permit described hereunder may be applied for and granted no more than two (2) times per any twelve-month period, except for nonprofit licensees, whom are issued an annual license.

(4) The permit granted under this section shall be deemed to be a privilege permit. The application shall be processed in accordance with this Code and shall be presented to the director of planning and development, which may take such action as it deems appropriate.

(5) The applicant shall also comply with all applicable laws of the State of Georgia related to this application and shall obtain all necessary state permits.

(6) Nonprofit licensees.

a. *Licensing requirements.* A nonprofit licensee shall comply with all the requirements of Article II of Chapter 4 of the City of Cartersville Code of Ordinances with the exception of the following:

1. The fees required pursuant to section 4-33 are not to be paid.
2. The provisions relative to holding licenses for multiple pursuant to section 4-56.
3. The restrictions pursuant to section 4-59 regarding location are not applicable nonprofit licensees who may hold licenses at nonprofit facilities as defined in section 4-1.
4. The requirements of section 4-110 shall not be applicable to a nonprofit .

b. *Premise restrictions.* A nonprofit licensee shall comply at all locations with the requirements of Article III of Chapter 4 of the City of Cartersville Code of Ordinances with the exception of the following:

1. The provisions of subsection 4-108(a) are not applicable and malt beverages and wine and distilled spirits pouring is allowed at a nonprofit facility.

c. *[Permit for each individual event.]* The nonprofit licensee shall apply for a temporary permit for each individual event during a year, per the requirement of section 4-130. (Amend. 2/18/10)

(Ord. No. 81-05, § I, 10-6-05; Ord. No. 51-08, § 1, 12-4-08)

“Sec. 4-131. Issuance to nonprofit museums, for sale for consumption on premises.

(a) An applicant may be issued a license for the sale of distilled spirits and malt beverage and wine for consumption on the premises of any nonprofit museum, within the city upon meeting all of the following requirements and all other requirements of this chapter dealing with the sale of alcoholic beverages for consumption on the premises.

(1) The applicant shall be a nonprofit corporation operating a nonprofit museum, be at least 50,000 square feet of display area, restaurant, theaters and conference facilities.

(2) The applicant shall be the same group or corporation operating the nonprofit museum and shall show that the profits from the sales under any license granted under this section shall be used for no purpose other than the sustaining and promotion of the museum wherein located.

(3) The applicant shall show by plat the physical delineation of the area in which alcoholic beverages are to be sold.

(4) The applicant shall be exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code, as amended.

(b) The applicant shall pay an annual license fee of \$100.00 and the fee shall be subject to all other rules and regulations relating to licensee fees for alcoholic beverages set forth in this chapter.”

“Section 4-132. Requirements for nonprofit museums.

(a) Any applicant granted a license under this Section shall comply with all applicable licensing requirements of Article II of Chapter 4 of the City of Cartersville Code of Ordinances with the exception of the following:

- (1) Section 4-57(d)5 is not applicable.
- (2) Section 4-59
- (3) Section 4-106
- (4) Section 4-33
- (5) The provisions relative to holding licenses for multiple locations pursuant to Sec. 4-56
- (6) Section 4-110
- (7) Section 4-108(a)

(b) The application shall comply in all respects with the requirements contained in this City Code Chapter of the city of Cartersville, and said application shall be processed in accordance with this Code and in the normal course of processing applications.

(c) The applicant must be a bona fide nonprofit corporation or charitable organization and must supply, with the original application, proof of its exempt status as granted by the Internal Revenue Service.

(d) The applicant shall also comply with all applicable laws of the State of Georgia related to this application and shall obtain all necessary state permits.”

“Section 4-133 – 4-149. Reserved.”

Article III. EMPLOYEES

DIVISION 1. IN GENERAL.

Section 4-150. Investigations of certain prospective employees.

A license holder, before employing any person for the sale or handling of malt beverages or wine and distilled spirits shall submit such prospective employee's name to the Chief of Police, who shall make such investigation as he may deem necessary as to the qualification of such prospective employee before issuing a handler's permit for such person. Such person must be able to read and write the English language; shall not have been convicted, within five (5) years of the date of the application, of a felony or any

violation of the laws of this state or any other state relating to the sale of alcoholic liquor or malt beverages in an establishment that sell alcoholic beverages, and after being issued a license, any charge for selling alcoholic beverages to a minor; and shall not have had revoked, for cause, such as a violation of regulations or improper operation, within five (5) years next preceding his application, any license issued to him by any state, county or municipality to sell alcoholic liquor or malt beverages of any kind. (Amend. 3/18/10)

Section 4-151. Employee identification cards.

(a) Any person, including the licensee, who works in a pouring outlet or package wine outlet shop which provides wine samples selling, pouring, serving alcoholic beverages or providing samples shall apply to the police department for a distilled spirits and/or malt beverage and wine employee identification card, which card shall expire on the person's birthday and be renewable on or before that time. The fee for the initial card shall be twenty-five dollars (\$25.00). The fee for a replacement card shall be twenty-five dollars (\$25.00). The fee for renewal of such card shall be ten dollars (\$10.00). In the event that a renewal of such card is late, an additional fee of twenty-five dollars (\$25.00) will be assessed for all renewals after the renewal date for each individual. Fees shall be paid to the City of Cartersville Police Department.

(b) While on duty in a pouring outlet or package wine shop, every person required to hold an employee identification card under subsection (a), shall visibly wear his employee identification card on their person at all times.

(c) Pouring outlet or package wine shop employees shall make themselves available for photographing, fingerprinting and such other investigating as may be required by the police department.

(d) The Police Department shall investigate the employee applicants. A distilled spirits and beer/wine pouring employee or package wine outlet employee identification card shall not be issued to any person who has pled guilty to, or has been convicted of a felony within the last five (5) years; shall not have been convicted, within five (5) years of the dated of the application, of a felony or any violation of the laws of this state or any other state relating to the sale of alcoholic liquor or malt beverages; in an establishment that sells, serves, or distributes alcoholic beverages, after being issued a license any charge for selling/pricing alcoholic beverages to a minor; and shall not have had revoked, for cause, such a violation of regulations or improper operation, within five (5) years next preceding the application, any license issued to him by any state, county, or municipality to sell alcoholic liquor or malt beverages of any kind. The Police Department shall report any other detrimental information about an application to the Alcohol Control Board, and may prohibit the issuance of a distilled spirits and beer/wine pouring identification card where the applicant's record indicates such employment would adversely affect the public health, safety or welfare, or violate the law. (Amend. 3/18/10)

(e) No licensee under the provisions of this article shall hire any person, nor any person to work or assist in a pouring outlet or package wine outlet until such person has procured a distilled spirits and/or malt beverage and wine employee identification card.

(f) The police department may provisionally grant an identification to an applicant, pending investigation and report. Where the report, when reviewed, is

unfavorable as set out in subsection (d), the department may revoke the card and demand its return.

(g) The police department may, after reasonable notice and hearing (unless waived), revoke an identification card and demand its surrender where the employee violates the provisions of this article, or becomes one who adversely affects the public health, safety and welfare.

(h) It shall be unlawful for an employee whose card has been revoked, and upon whom demand for surrender of a card has been made, to refuse to so surrender, or to alter, conceal, deface or destroy the card. (Amend. 8-3-06)

Section 4-152. Employment of minors.

No retail dealer or pouring outlet shall employ, require or permit persons under eighteen (18) years of age to sell or take orders for any distilled spirits and malt beverage and wine.

Section 4-153 – 4-174. Reserved.

ARTICLE IV. CATERERS.

Section 4-175. Scope of article.

In addition to the general business license requirements of this Code and chapter 4 and chapter 10 of the City Code, the following sections shall apply to the licensing and operation of all establishments selling alcoholic beverages for consumption off-premises in connection with an authorized catered event or function and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

Section 4-176. Definitions.

In addition to the definitions provided in other sections of this Code, the following words shall have the indicated meaning for purposes of this article:

Food caterer shall mean any person who prepares food for consumption off the premises.

Licensed alcoholic beverage caterer shall mean any retail dealer licensed pursuant to chapter 4 and chapter 10 of the City Code.

Person shall extend and be applied to associations, firms, partnerships and bodies politic and corporate, or any combination thereof, as well as to individuals.

Section 4-177. Alcoholic beverage license required.

(a) Any alcoholic beverage caterer who possesses a valid license from the city or another city or county in Georgia and possesses a valid license from the State of Georgia to sell malt beverages, wine or distilled spirits by the drink and/or by the package at a fixed location within the city may be issued by the city an event permit authorizing such sales off-premises and in connection with an authorized catered event or function.

(b) A licensed alcoholic beverage caterer may only sell that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may only sell malt beverages at the authorized catered event or function.

(c) An alcoholic beverage caterer shall submit an application for an off-premises event permit to the Director of Community Development. The license may be applied for at the same time as the alcoholic beverages license(s).

(d) It is unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a permit as provided herein.

Section 4-178. Food caterer.

Any food caterer, as defined herein, operating within the city shall apply for an alcoholic beverage caterer's license in order to distribute or sell any distilled spirits, malt beverages or wine off the premises of the food caterer's business. This does not affect any requirements that the food caterer have a license to sell alcoholic beverages on the premises of the food caterer's business.

Section 4-179. Event permit and application –Fee.

(a) Exclusive of the permit required herein, each alcoholic beverage caterer wishing to sell or distribute spirits, malt beverages, or wine at an authorized catered event or function within the city must apply for an event permit. The application for the event shall include the name of the caterer; the date, address, time and name of the event; and the quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function.

(b) The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function, and shall be available for inspection at the catered event or function during the duration of such event or function.

(c) It is unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the event permit.

(d) The event permit will be valid for the length of the authorized event or function or as approved by the city. After expiration of the event, the alcoholic beverage caterer shall apply for a new event permit in the same manner as the original permit.

Section 4-180. Reserved (Amend. 12-1-11)

Section 4-181. Duration and renewal of licenses.

Any license issued hereunder shall automatically expire on December 31st of the year of its issuance.

Section 4-182. Restrictions.

(a) No person under the age of eighteen (18) may be employed by a licensed alcoholic beverage caterer to dispense, sell or handle alcoholic beverages as prohibited by O.C.G.A. § 3-3-23, and chapter 4 of this Code.

(b) No alcoholic beverage caterer may distribute or sell alcoholic beverages during any hours prohibited in the city.

Section 4-183. Violations.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor, and subject to a fine of up to one thousand dollars (\$1000.00) per violation and/or six (6)

months in jail. Additionally, any person violating this chapter may, after a hearing as provided under the licensees malt beverage and wine and/or distilled spirits licenses may have their licenses suspended, revoked and/or other penalties and fines imposed as provided for in the Code, for said licenses.

Section 4-184 – 4-199. Reserved.

ARTICLE V. ALCOHOL CONTROL BOARD*

Section 4-200. Establishment, composition.

(a) There is hereby established an Alcohol Control Board (sometimes referred to as the "ACB"), which shall consist of five (5) residents of the city. However, up to two (2) council members may serve on said board, instead of the Post 1 and Post 2, appointee. The chairman of the alcohol control board shall be designated and appointed by the City Council.

(b) All other members of the Alcohol Control Board shall also be chosen and appointed by the City Council. All members shall serve terms, and occupy posts as follows:

- (1) *Post 1.* A resident of the city, serving four-year term.
- (2) *Post 2.* A resident of the city, serving four-year term.
- (3) *Post 3.* A resident of the city, serving a three-year term.
- (4) *Post 4.* A resident of the city, serving a three-year term.
- (5) *Post 5.* A resident of the city, serving a three-year term.

(c) Each member shall serve his specified term and/or until his successor is appointed and qualified, unless a city council member, then their term is concurrent with their term of office.

(d) In all actions by the Alcohol Control Board, all members of the Alcohol Control Board shall be eligible to vote.

(e) The vote of three (3) members shall be required to approve any action. The board shall adopt bylaws to govern its meetings and rules for conducting the same.

(f) For every meeting attended, said members shall be paid thirty-five (\$35.00) per meeting.

Section 4-201. Staff and advisors; duties.

(a) The City Clerk shall be the recorder and record keeper of the Alcohol Control Board and as such shall attend meetings, take minutes thereof, be responsible for all files and records, receive and process applications and perform other such tasks as designated by the alcohol control board. The Director of Planning and Development or his/her designee may participate in all discussions of the Alcohol Control Board but has no voting power. (Amend. 3/18/10)

(b) The Alcohol Control Board shall have, as it requires, additional staff consisting of the city manager, city attorney, chief of police, and all city employees available to it. These staff persons may participate in all discussions of the alcohol control board but shall not have the power to vote.

Section 4-202. Powers and duties.

The Alcohol Control Board is hereby vested with the following duties and powers:

(1) *Initial applications.* To screen, verify, investigate and review all initial applications for licenses for the sale of distilled spirits, wine, and/or malt beverages, at wholesale and retail, by the package for off premises consumption and by the drink for on premises consumption.

a. To approve, deny, and/or table the issuance or denial of licenses with or without conditions for the sale of distilled spirits, wine and malt beverages for on premises consumption and for the sale of distilled spirits, wine, and/or malt beverages for off premises consumption. (Amend. 3/18/10)

b. To approve deny, and/or table the issuance or denial of licenses with or without conditions to sell distilled spirits, wine, and/or malt beverages, by the package at wholesale or retail for off premises consumption. (3/18/10)

(2) *Renewals.* To investigate and hear reports and charges constituting probable cause not to renew license for the sale of distilled spirits, wine, and/or malt beverages, at wholesale or retail, by the package, for off premises consumption and by the drink for on premises consumption.

a. To approve, deny, and/or table the issuance or denial of renewals of licenses with or without conditions for the sale of distilled spirits, wine, and/or malt beverages by the drink for on premises consumption. (Amend. 3/18/10)

b. To approve, deny, and/or table the issuance or denial of licenses with or without conditions to sell distilled spirits, wine, and/or malt beverages by the package at wholesale or retail for off premises consumption. (Amend. 3/18/10)

(3) *Suspension, fine, revocation; probation.* To investigate and hear reports and charges constituting probable cause to suspend, fine, place on probation or revoke the licenses for the sale of distilled spirits, wine, and/or malt beverages, at wholesale or retail, by the package and by the drink.

a. To suspend, revoke, fine, place conditions on. and/or place on probation licenses for the sale of distilled spirits, wine, and/or malt beverages by the drink for on premises consumption.

b. To suspend, revoke, fine, place conditions on and/or place on probation licenses for the sale of distilled spirits, wine, and/or malt beverages by the package at wholesale or retail, for off premises consumption.

(4) *Appeals.* To hear appeals on the seizure of a license by the Chief of Police, the Assistant Chief of Police, a duly authorized officer or the Code Enforcement Officer under section 4-203 and to affirm, reverse, modify with or without conditions upon the actions of the suspending officer. (Amend. 3-2-06 & Amend. 3/18/10)

(5) *Entertainment.* To receive reports on, to investigate and to approve or disapprove entertainment at establishments licensed to sell alcoholic beverages by the drink, all as provided in this chapter, and to take or recommend such action as is appropriate in the case of such disapproval.

(6) *Employees.* To receive reports on, to investigate and to approve or disapprove employees of retail outlets for the sale of alcoholic beverages by the package or the drink, all as provided in this chapter and to take such action as is appropriate in the case of such disapproval.

(7) *Ordinances and policies.* To recommend to the City Council modifications to the ordinances and policies of the city pertaining to the regulation, control and taxing of distilled spirits, wine, and/or malt beverages.

(8) *Complaints, etc.* To hear complaints, suggestions and recommendations from the City Manager, the City Council, police department, state officials, alcoholic beverage dealers and the public at large as to the operating of distilled spirits, wine, and/or malt beverages outlets within the City.

(9) *Rules and regulations.* To promulgate rules and regulations governing procedures before it.

(10) *Meetings.* The Alcohol Control Board shall hold meetings pursuant to the timelines contained herein for hearings and otherwise as it determines in its sole discretion.

Section 4-203. Suspension and revocation—Generally.

(a) *Summary action.* There shall be no summary seizure of licenses under this chapter, unless there exists in the city a state of emergency duly declared; after any such seizure, a hearing shall be held as soon as practicable, except as authorized under Section 4-32 of this Chapter. (Amend. 3/18/10)

(b) *Action by Alcohol Control Board.* The Alcohol Control Board shall have full power and authority to revoke, refuse to renew, suspend, fine, or place on probation any license to sell distilled spirits, wine, and/or malt beverages for a violation of this Code, or of the state or federal laws, or when the continued operation of the licensed business is detrimental to the health, safety or welfare of the public. (Amend. 3/18/10)

(c) *Emergency Suspension.* The City Manager is authorized to suspend the sale of alcoholic beverages under any license for emergency situation when he deems such suspension necessary for protection of the public health, safety, or welfare. Such suspensions may be made effective immediately and shall remain in force until the Mayor and City Council determine that the emergency is over or until the next meeting of the City Council, at which time the suspension shall cease unless it is extended by the Mayor and City Council. (Amend. 3/18/10)

Section 4-204. Suspension and revocation based on change of conditions.

A license may be suspended or revoked and/or modified after notice and hearing, if any change in the information supplied, or in the physical layout represented in the plat submitted, occurs without the approval of the Alcohol Control Board. An applicant anticipating any such change shall submit all details thereof to the Alcohol Control Board. (Amend. 3/18/10)

Sec. 4-205. Considerations and guideline for issuance, renewal or denial.

The Alcohol Control Board, Mayor and City Council, in making its determination on an initial application or renewal thereof, shall be guided by the following factors as to whether or not to grant a license under this division:

- (1) The nature of the neighborhood immediately adjacent to the proposed locations, that is whether the same is predominately residential, industrial or business.
- (2) The proximity of churches, hospitals, schools, college campuses, public libraries, public parks and playgrounds, private residences and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
- (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards there from.
- (5) The criminal record of the applicant and the outlet manager and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
- (6) A report of the chief of police, the building inspector, the fire marshal, and the city engineer.
- (7) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and legal matters have been met.
- (8) Evidence presented to the board for or against the application.
- (9) Whether or not the granting of the application is in the interest of the city.
- (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has been revoked for cause by the alcohol control board..
- (11) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the city.
- (12) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violations of the law.
- (13) Compliance with the requirements of this chapter and the Code of Ordinances of the City of Cartersville.
- (14) If a licensee has failed to satisfy the criteria for obtaining a license to sell.

- (15) If a licensee, or such licensee's employee or agent, has violated any federal, state, or local laws of ordinances relating to the use and sale of drugs and alcoholic beverages, and or violent crimes.
- (16) When the continued operation of the licensed business is determined to be detrimental to the health safety, or welfare of the public.
- (17) The failure of the licensee or his employees to report immediately to the police department known violation of law or municipal ordinances, breach of peace, disturbance or altercation occurring in or in the immediate proximity to the licensee's premises.
- (18) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises, including but not limited to adjacent parking lots or areas which may be lawfully used by patrons of the licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
- (19) Breach of the peace, disorderly conduct or altercations and in incidents involving breach of peace, disorderly conduct, or altercations, the following additional factors shall be considered.
 - (i) The facts and circumstances of the incident.
 - (ii) The parties involved.
 - (iii) The criminal history of the parties, if any.
 - (iv) Damage to persons and property.
 - (v) Intoxication levels of individuals involved.
 - (vi) Conduct of employees and licensee in regards to said incident and involvement.
 - (vii) Mitigating circumstances.

Section 4-206. Renewal; denial of renewal.

- (a) All licenses under this chapter shall be issued on a calendar year basis and shall be renewable as a matter of course upon payment of the appropriate fee, except as is set out in subsection (d).
- (b) Each licensee shall make a written application for renewal as provided for herein.
- (c) The application shall be referred to the Director of Planning and Development or his/her designee, who shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year. (Amend. 3/18/10)
- (d) If the Director of Planning and Development or his/her designee reports any activity, which constitutes probable cause for not renewing a license, the renewal shall not be made, and the matter shall be referred to the Alcohol Control Board for its consideration. (Amend. 3/18/10)
- (e) The Alcohol Control Board shall afford the licensee a public hearing, and in passing upon the application for renewal, it shall be guided by the following factors

applicable to an initial application: subsections (5), (6), (8), (9), (10), (12) and (13) of section 4-205.

(f) At the public hearing, the Alcohol Control Board may approve the issuance or denial with or without conditions of the renewal of any licenses issued under the division. (Amend. 3/18/10)

Section 4-207. Incomplete application.

An application under this article filed and submitted before containing substantially all the information required may be rejected by the Alcohol Control Board, and an applicant may not re-file for a period of ninety (90) days.

Section 4-208. Approval of application; expiration of 90 days; extension for cause.

An approval of an application under this chapter by the Alcohol Control Board shall expire after ninety (90) days from the date of such recommendation, unless the applicant has procured, and paid the fee for, the approved license. The Alcohol Control Board in its discretion after hearing may grant a one time extension of sixty (60) days upon due cause shown. (Amend. 3/18/10)

Section 4-209. Action by Alcohol Control Board.

(a) The Director of Planning and Development or his/her designee, when assured that all requirements have been complied with, shall refer the application, together with any objections filed, to the Alcohol Control Board. The Alcohol Control Board shall, after investigation of the applicant and the proposed location, direct the secretary to issue or refuse the license for which application is made, upon payment of the appropriate fee. (Amend. 3/18/10)

(b) The Alcohol Control Board shall be authorized to suspend, fine, place on probation, or revoke an alcoholic beverage license under the conditions set forth in this section. However, except as provided in this Chapter, no revocation, probation, fine or suspension shall be imposed without first providing the licensee with notice of his rights to appeal as more specifically provided in subsections (e)(2) and (4). Sufficient grounds for the suspension, probation, fine or revocation, with or without conditions of a license include, but are not limited to, the following: (Amend. 3/18/10)

(1) A licensee has failed to open for business within ninety (90) days after approval of the license.

(2) A licensee has ceased to operate the business for a period of three (3) consecutive months.

(3) A licensee, or such licensee's employee or agent, has sold alcoholic beverages during a period of suspension.

(4) A licensee gave false or misleading information in the original application or renewal process.

(5) A licensee has failed to pay any fee, license fee, fine or other amount of money due to the city under this chapter or any other city-licensing ordinance.

(6) A licensee has failed to maintain any and all of the general qualifications applicable to the initial issuance of a license as set forth in this article.

(7) A licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person that the licensee or the licensee's employee or agent, knew or should have known to be in a state of intoxication.

(8) A licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person without requiring proof of age identification as required in this chapter.

(9) A licensee or employee or agent thereof has violated any provision of Chapter 4. Alcoholic Beverage Article I. Division 2. Regulations of Establishments and Division 3. Taxes.

(10) For any provision of Chapter 4 which specifically states the license may be suspended or revoked for a violation.

(11) For any violation of O.C.G.A. 3-3-21.

(12) For multiple violations of any requirement or multiple requirements of Chapter 4, during a two year period.

(c) Subject to the notice, hearing and appeal rights of a licensee as provided in this chapter, if the Alcohol Control Board determines that a violation has occurred and been adjudicated guilty or the licensee has pled guilty or no contest it is authorized to levy the following fines and penalties. The board has the right to impose additional penalties or waive any of the penalties imposed based upon the facts of the incident as presented to them. (Amend. 3/18/10)

For violations within a three-year period involving the same license, owners or location the following schedule is hereby adopted.

TABLE INSET:

Offense	Fine	Probation	Suspension/Revocation
First	\$2,500.00	3 years	None
Second	\$3,500.00	3 years	30 days suspension
Third	\$5,000.00	3 years	Revocation no reapplication for one year

(d) Any violations of this chapter may in addition be prosecuted in the Municipal Court of the City of Cartersville. If the violator is found guilty, enters a plea of guilty, or enters a plea of no contest, the penalty for any violation is subject to a fine of up to one thousand dollars (\$1,000.00) per day, per violation and/or up to six (6) months in jail per day, per violation. Furthermore, all other violations of this Chapter shall be prosecuted in the Municipal Court of the City of Cartersville and are subject to a fine of up to \$1,000.00 per day per violation and/or up to six (6) months in jail per violation. (Amend. 3/18/10)

(e) (1) Prior to imposing any sanction authorized by this section, the Director of Planning and Development his/her designee shall provide written notice to the licensee

specifying the licensee's alleged violations of this chapter and the date, time and place of the hearing to be held before the Alcohol Control Board to determine if the violations have occurred. The date of the hearing shall be not less than five (5) nor more than thirty (30) days after the date of the written notice. Hearings shall be conducted consistent with rules applied in administrative proceedings which shall ensure that each party may present evidence, cross examine witnesses, and be represented by legal counsel. All testimony shall be sworn. The City shall have the responsibility to present evidence sufficient to carry the burden of proof by a preponderance of the evidence. Following the hearing, the Alcohol Control Board shall prepare a written order to include findings, conclusions and sanction, if any. A copy of the order shall be forwarded by certified mail to the licensee the same date it is filed in the office of Planning and Development and/or hand delivery to the licensee or their establishment. (Amend. 3/18/10)

(2) The order issued by the Alcohol Control Board in accordance with the procedures outlined in subsection (e)(1) of this section shall be stayed for a period of fourteen (14) days after the issuance of the order. During this fourteen (14) day period, the licensee shall have the right to file an appeal to the Mayor and City Council. If the licensee does not file a timely appeal, the order shall be final. If an appeal is filed, any monetary penalty imposed must be paid to the Director of Planning and Development and said funds shall be held in escrow until final disposition of said appeal. If the Appellant prevails in the appeal, said funds shall be returned. (Amend. 3/18/10)

(3) Additionally, if an applicant is denied a license, said applicant shall have the right to appeal same to the Mayor and City Council within fourteen (14) days of the date of denial. (Amend. 3/18/10)

(4) The notice of appeal to the Mayor and City Council shall be in writing and accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The grounds for the appeal shall be limited to issues that were addressed in the hearing. Upon receipt of a notice of appeal, the City Manager shall submit the entire record of the case to the Mayor and City Council and the Planning and Development Director or his/her designee and may also submit a memorandum in response to the memorandum filed by the licensee. The Planning and Development Director shall place the appeal on the agenda of the next regular Council meeting occurring not less than ten (10) or more than thirty (30) days after receipt of the appeal, unless the parties stipulate to another date. The appellant shall have the right to be represented by legal counsel. At the hearing, the Mayor and City Council will receive oral arguments on the written memoranda and the evidence in the record. The right to offer oral argument may be waived. No additional evidence or arguments shall be permitted at the Council meeting, and the Council shall base its decision on the memoranda, oral arguments, if any, and other evidence in the record. Following the appeal hearing, the Council may sustain, overrule or modify the order. In lieu of suspension or revocation, the Mayor and City Council may impose a fine upon any licensee, such fine as set forth in this chapter, for each violation occurring on the licensed premises. The Mayor and City Council shall also have the option to remand the matter to the Alcohol Control Board for a de novo hearing or for the taking of additional evidence on specific points. If the City Council does not refer the matter back to the Alcohol

Control Board the decision of the Mayor and City Council shall be final and the appellant shall have the right to seek a writ of certiorari to the Superior Court of the county within thirty (30) days of the final action of the Mayor and City Council. The final action of the City Council shall be reduced to a written order signed by the Mayor. The original of the Mayor's order shall be filed in the record of the case, and a copy of the order shall be included in the minutes of the Mayor and City Council meeting. It shall be the responsibility of the City Clerk to provide a copy of the order to the appellant.

(f) The penalties for establishments and license holders may be mitigated if such establishments are found to have maintained an effective compliance program. Factors to be considered are: (Amend. 3/18/10)

- (1) Whether and to what extent the establishment requires its servers to attend alcohol ordinance compliance seminars.
- (2) Whether the establishment conducts its own "secret shopper" or internal "sting" operations.
- (3) Whether the establishment has a written policy dealing with the problems of minors attempting to obtain alcohol at such establishment.
- (4) Whether the establishment has appropriate signs and other displays such as "We ID" or "If you're a minor, the soft drinks are this way".
- (5) The degree to which the establishment has procedures in place to monitor its servers for compliance with the ordinance.
- (6) Whether the establishment makes available a copy of the ordinance to its servers.
- (7) Extent to which the establishment has met the others requirements of the ordinance.
- (8) Other evidence demonstrating the establishment's compliance with the ordinance and prevention of underage drinking in the establishment and the community at large.

II.

In regards to licenses pursuant to Section 4-130 this Ordinance is effective upon adoption, otherwise the effective date is November 30, 2005.

The current provisions of Chapter 4 shall remain in effect until November 30, 2005, except as stated herein.

III.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia and the sections of this ordinance may be re-alphabetized to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: September 1, 2005

SECOND READING: October 6, 2005

Amended:

March 3, 2006
August 3, 2006
February 1, 2007
April 5, 2007
December 4, 2008
January 1, 2009
March 18, 2010
June 3, 2010
December 1, 2011
August 16, 2012
September 6, 2012