

AN ORDINANCE AMENDING THE CARROLL COUNTY CODE OF ORDINANCES BY AMENDING CHAPTER 6 - ALCOHOLIC BEVERAGES REPEALING THE ENTIRE CHAPTER AND REPLACING IT WITH A NEW CHAPTER 6 – ALCOHOLIC BEVERAGES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW

WHEREAS, the Board of Commissioners has determined that it desires to revise its alcoholic beverage ordinance as a whole as well as to establish and regulate farm wineries within Carroll County; and

WHEREAS, the Board of Commissioners has determined that repealing and replacing the Alcoholic Beverage ordinance as a whole is in the best interests of Carroll County;

NOW, THEREFORE BE IT AND IT IS HEREBY ORDAINED by the Carroll County Board of Commissioners and under the authority thereof:

Section 1.

That the Code of Ordinances, Carroll County, Georgia is hereby amended by repealing Chapter 6-Alcoholic Beverages and replacing it with a new Chapter 6-Alcoholic Beverages for the regulation of alcoholic beverages within Carroll County including the establishment and regulation of Farm Wineries within the County attached hereto as Exhibit A.

Section 2.

- a. It is hereby declared to be the intention of the Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.
- b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- c. In the event that any phrase, clause, sentence, or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners

that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

Section 4.

This Ordinance shall become effective upon its adoption by the Board of Commissioners.

Section 5.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the County.

Section 6.

It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, Carroll County, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED, this 6th day of August 2013.

CARROLL COUNTY, GEORGIA



Marty W. Smith,
Chairman of Board of Commissioners

ATTEST:



Susan A. Mabry, County Clerk

CARROLL COUNTY ORDINANCES

CONSOLIDATED ALCOHOL ORDINANCE OF CARROLL COUNTY

ARTICLE I – TITLE, DEFINITIONS

Section 6-0 Title. This Ordinance shall be known and may be referred to as the Carroll County Alcohol Ordinance.

Section 6-1 Definitions. As used in this Ordinance, unless context otherwise requires, the following terms are hereby defined:

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

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

Alcohol Treatment Facility means any facility in which treatment, counseling and other services are rendered for alcohol dependency.

Beer or Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than fourteen percent (14) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

Board of Commissioners means the Board of Commissioners of Carroll County, Georgia, also known as the Board.

County means Carroll County, Georgia.

Day Care Facility means the use of a building or premises for the care and supervision of children or adults, who do not reside on the property, for periods of less than 24 hours. For the purposes of this ordinance, the terms Day Care Center (19+), Day Care Home, Family (6 or fewer), and Day Care Home, Group (7-18), shall carry the State of Georgia definitions for such operations.

Distilled Spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

ALCOHOLIC BEVERAGE

Drug Store means any store which sells primarily health care products and which has a pharmacy that supplies prescription medications.

Employee Permit means an authorization granted by the county to employees of a licensed retail consumption dealer to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer. Additionally this permit authorizes employees of a retail dealer (liquor store, package store) to sell alcoholic beverages in that establishment.

Fortified Wine means any alcoholic beverage containing more than 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.

Grocery Store means a store which sells primarily food, and which has a produce department and a meat department.

Hotel means a building(s) in which overnight accommodations, without separate cooking facilities are provided to the public. The term "hotel" includes the terms "motel" and "tourist court".

Housing Authority means any property containing 300 housing units or fewer owned or operated by a housing authority created under the State Housing Authorities Law.

Indoor Recreation Facility (Private) means an indoor area or establishment that offers various recreation or amusement.

Licensed Alcoholic Beverage Caterer means any holder of a license issued under this ordinance for the retail sale of beer, wine, and/or distilled spirits by the drink, who is a licensed caterer, who is otherwise qualified under the provisions of O.C.G.A. § 3-11-1 et. seq., and who obtains a license to sell alcoholic beverages at authorized special events.

Licensee means the individual to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine is issued under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

CARROLL COUNTY ORDINANCES

Place of Worship means a building or structure, or groups of buildings or structures, primarily intended for conducting organized religious services. Associated accessory uses include, but are not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care counseling, kitchens and outdoor meetings (including tent meetings).

Restaurant means an establishment where meals or refreshments may be purchased by the general public for consumption on, or off its premises.

Retail dealer means persons other than brewers, distillers or wholesale dealers who sell distilled spirits, malt beverages, or wines irrespective of the quantities sold.

School means a facility used for education or instruction in any branch or knowledge.

Wholesale Dealer means persons other than brewers who sell malt beverages, wines or distilled spirits to retail dealers for purposes of resale only.

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

ARTICLE II - TYPES OF LICENSES AND FEES

Section 6-2 License is a Privilege

A) Alcoholic beverages may be sold in the unincorporated area of the county under a license granted by Carroll County upon the terms and conditions provided in this ordinance.

B) All licenses issued pursuant to this ordinance shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this ordinance and state law.

C) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."

ALCOHOLIC BEVERAGE

D) Any holder of a license issued in accord with this ordinance is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.

Section 6-2-1 Licenses, Generally. Expiration and Application Dates. Transferability.

All licenses issued under this Ordinance shall:

A) Permit the licensee to sell or distribute the beverage for which the license is issued outside municipalities in Carroll County, Georgia, pursuant to the terms of this Ordinance and not inconsistent with the laws of the State of Georgia and of the United States;

B) Expire on December 31 of each year. Application for renewal shall be made annually on or before the thirtieth day of November. Any licensee making proper application, with supporting documents, for a license to operate during the following calendar year and having filed such application prior to November 30, shall be permitted to continue to operate pending final approval of such licensee's application for the following year if final approval is not granted prior to January 1; and

C) Not be transferred from one person to another or from one location to another without the prior approval of the Zoning Administrator upon written application.

Section 6-2-2 Types of Licenses and Permits Issued.

Only the following licenses and or permits shall be issued under this ordinance:

1. Malt Beverages, Wholesale
2. Malt Beverages, Retail Package
3. Malt Beverages, by the drink for consumption on the premises
4. Wine, Wholesale
5. Wine, Retail Package
6. Wine, by the drink for consumption on the premises
7. Distilled Spirits, Wholesale
8. Distilled Spirits, by the drink for consumption on the premises
9. Licensed Alcoholic Beverage Caterer
10. Farm Winery Tasting Room
11. Special Event Alcohol Permit
12. Employee Permit
13. Hotel-Motel in Room Service Permit

CARROLL COUNTY ORDINANCES

Section 6-2-3 Fees

A) There is an annual license fee for each type of license. In addition, there is an administrative fee to offset administrative and investigative costs which is charged with the initial application. The fees applicable to all license applications and renewal applications are as set forth in the Carroll County Alcohol Ordinances Schedule of Fees. Said fee schedule may be modified by the Board of Commissioners periodically as needed.

B) Each type of license to be issued requires a separate application. Each application for a license shall be accompanied by a certified check in the full amount of the license fee, together with a separate certified check in the amount of the application fee to defray investigative and administrative costs. In the event a license is denied, the license fee will be refunded, but the application fee is non-refundable.

C) Licenses are valid for one calendar year. If a license is issued prior to July 1 of the year, the full annual license fee shall be payable. If the license is issued July 1 or thereafter, only 50% of the license fee shall be payable.

D) All licenses granted under this ordinance shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in this section, with the Board of Commissioners on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee, a late charge of 20%. If the license application is received after January 1, such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

E) In the event a license is issued and thereafter surrendered, revoked, suspended or transferred, no portion of the license fee shall be refunded.

F) In the event an application is withdrawn before the license is issued, any sums deposited for license fees will be refunded. Application fees will not be refunded.

ARTICLE III - EXCISE TAX

Section 6-3-0 Wholesale

A) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter that shall be paid to the Board of Commissioners on all distilled spirits and wine sold by wholesalers to retailers in Carroll County. Such tax shall be paid to the

ALCOHOLIC BEVERAGE

designee of the Board of Commissioners by the wholesale distributors on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in Carroll County as follows: Each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the Department of Community Development after the twentieth day of the month shall be charged a ten percent (10%) penalty. The twenty-two cents (\$0.22) per liter shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of twenty-two cents (\$0.22) per liter. It shall be unlawful and a violation of this ordinance for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this ordinance for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid.

B) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in Carroll County at the rate of twenty-two cents (\$0.22) per liter and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 ½) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

SIZE OF CONTAINER TAX PER CONTAINER

7 ounces	\$ 0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
½ barrel (15 ½ gallon)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages.

Section 6-3-1 Distilled Spirits by the Drink

A) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent (3) of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the county on or before the twentieth (20th) day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and

CARROLL COUNTY ORDINANCES

shall be reported and taxes collected thereon shall be submitted to the Department of Community Development to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. §48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

B) Excise taxes received in the Department of Community Development after the 20th day of the month shall be charged a ten percent (10%) penalty.

C) If the Board of Commissioners deems it necessary to conduct an audit of the records and books of the licensee, their designee will notify the licensee of the date, time and place of the audit.

D) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00, and the license of such location may be suspended or revoked.

Section 6-3-2 Farm Wineries

Farm winery licensees shall pay an excise tax at a rate of twenty two cents (\$0.22) per liter according to the process detailed in section 6-3-0 above (wine and distilled spirits).

ARTICLE IV - GENERAL PROVISIONS - ALL LICENSES.

Section 6-4-0 Applications

A) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the Department of Community Development.

B) If the applicant is an individual, then the application for license shall be in the name of the individual and the license, if issued, shall be issued in that name.

C) If the applicant is a partnership, then the application shall be made in the name of the partnership; and if a license is issued, then the license shall be issued in the name of the partnership or in accord with Section 6-4-3 hereof if Section 6-4-3 applies.

ALCOHOLIC BEVERAGE

D) If the applicant is a corporation, then the application shall be made in the name of the corporation; and if a license is issued, then the license shall be issued in the name of the corporation or in accord with Section 6-4-3 hereof if Section 6-4-3 applies.

E) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the Department of Community Development to insure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

F) The fingerprints provided shall be forwarded to the Sheriff's Office and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two (2) years immediately preceding the date of the application.

G) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

H) An applicant for any type of license under this Ordinance, including an employee permit, must resolve any pending alcohol related criminal charges before his or her application will be considered.

Section 6-4-1 Granting Applications

A) Once an applicant has fully complied with and been approved by the Department of Community Development, the appropriate license shall be granted.

Section 6-4-2 Denial of an Application

A) The Department of Community Development shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this ordinance.

B) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the date of such denial.

Section 6-4-3 Qualifications of Licensees

A) Wholesale: Wholesale licenses shall be issued only to those persons who are licensed by the State of Georgia to sell and distribute malt beverages, wines, or distilled spirits at wholesale.

B) Retail Package Sales and Consumption by the Drink on the Premises:

CARROLL COUNTY ORDINANCES

C) In order to qualify for the issuance of a retail license, the following provisions shall apply:

(1) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than 21 years of age. Applicants may choose to employ a registered agent for the administration of the license.

(2) If the applicant is a partnership or corporation, then the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder (if an individual). If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. In the case of a partnership, the license will be issued to all the partners owning at least twenty percent (20%) of the partnership; or if no partner owns twenty percent (20%) of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed.

(3) If the applicant is a non-profit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.

(4) No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of the Department of Community Development or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the two (2) years preceding the filing of the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, is convicted or pleads guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including

ALCOHOLIC BEVERAGE

the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be immediately revoked and canceled.

(5) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within two (2) years prior to the filing of application for such license.

(6) It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this ordinance to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.

(7) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two (2) years prior to the filing of the application.

(8) The Department of Community Development may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.

(9) Licensed establishments may choose to maintain in Carroll County a registered agent as indicated in sub-section (C.1). The licensee shall file the name of such agent, along with the written consent of such agent, with the Department of Community Development on such forms as the Department of Community Development may prescribe. If a licensed establishment changes the registered agent during the year for which license is issued, then the registered agent assuming such responsibility in accord with the terms hereof shall meet all requirements of this Ordinance.

(10) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

(11) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(12) The Department of Community Development may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that

CARROLL COUNTY ORDINANCES

granting of the license would not be in the best interest of the public health, safety, welfare, and morals, then such circumstances may be grounds for denying the application.

(13) For purposes of this ordinance, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the defendant was allowed to avail himself or herself of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt.

Section 6-4-4 MEASUREMENT OF DISTANCE

A) As used in this section, the term, "School", or "Educational Building" shall apply only to state, county, city, or Place of Worship school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools, universities and colleges of this state and which are public schools or private schools as defined in O.C.G.A. 20-2-690(b). The terms "School" and "Educational building" include only those structures in which instruction is offered. The term "College" shall mean an educational institution authorized by the state to award associate, baccalaureate or higher degrees.

B) The term "Place of Worship" means Worship means a building or structure, or groups of buildings or structures, primarily intended for conducting organized religious services. Associated accessory uses include, but are not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care counseling, kitchens and outdoor meetings (including tent meetings).

C) The requirements for minimum distance from a Place of Worship or College located in a shopping center, as defined by the latest Illustrated Book of Development Definitions (copyright 2004 by Rutgers), shall not apply to any new license for retail package or retail consumption.

D) For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

(1) From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;

(2) In a straight line, regardless of obstructions, to the nearest public sidewalk, walkway, street, road or highway by the nearest route;

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

ALCOHOLIC BEVERAGE

(4) To the main entrance of the church building, or to the nearest portion of the school grounds or college campus.

E) No location which is licensed to sell alcoholic beverages on the effective date of this ordinance shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of said location be denied a new license based upon the measurements set forth in this section.

F) As to any licensed location, if the distance requirements in this section are or were met at the time of the issuance of any license, the subsequent opening and operation of a Place of Worship, Day Care Facility, Alcohol Treatment Facility, School, Educational Building or College within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

Section 6-4-5 Transferability of License/ Change in Ownership

A) Individuals - In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 6-4-3 and must file an application as provided in Section 6-4-0 and tender with the application the investigative and administrative fee as provided in Section 6-2-3 and any license fee that may be due.

B) Partnerships or Corporations - In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the Department of Community Development in writing within five days. "Change of ownership interest" as used herein includes, but is not limited to, any change in:

- (1) Division of profits and/or losses;
- (2) Division of net gross or sales;
- (3) Method of paying or amount of rent paid;
- (4) Ownership of leased premises, or buildings or land used in the business;
- (5) Members of a partnership;
- (6) Stockholders of corporate stock; and
- (7) Management.

C) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this ordinance for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.

D) All applications for transfer of a license shall be accompanied by the transfer fee, together with an investigative and administrative fee. If the transfer is not approved,

CARROLL COUNTY ORDINANCES

then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded.

E) Upon the death of a licensee, the Executor or Administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegate, would otherwise be qualified as a licensee under the provisions of this ordinance.

Section 6-4-6 Automatic License Forfeiture for Non-Use

A) A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the permitted sale of alcoholic beverages. Any holder of any license under this ordinance who shall for a period of thirty (30) days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the thirty (30)-day period, automatically forfeit the license without the necessity of any further action.

B) In the event a license is conditionally issued for a location upon which the licensee intends to build an appropriate building or renovate an existing structure, the licensee will be determined to have ceased doing business if necessary permits are not obtained and work completed within two (2) years of the date the license is approved.

Section 6-4-7 Licensees to Maintain a copy of this Ordinance; Employees to be Familiar with Terms; Licensee Responsible for Violations

Each alcoholic beverage dealer licensed under this ordinance shall keep a copy of this ordinance upon the licensed premises and shall instruct any person working there with respect to the terms of this ordinance; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this ordinance.

Section 6-4-8 Display of License

The county alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

Section 6-4-9 Advertising

Licensees may use window signs to advertise products for sale within the store, so long as said signs comply with the Carroll County Sign Ordinance.

Section 6-4-10 Sale or Possession for Sale without License or Beyond Boundaries of Premises Covered by License; Penalties

It shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the county to sell, distribute, or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license.

Section 6-4-11 Penalties for Violation of Ordinance

Any person who violates any provision of this ordinance, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20.

Section 6-4-12 Requirement to Properly Check Identification

In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain alcoholic beverages is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said alcoholic beverages or wine to comply with the provisions of applicable state law concerning the purchase or possession of alcoholic beverages by underage persons.

Section 6-4-13 Prohibited Sales

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages shall do any of the following upon the licensed premises:

A) Knowingly sell or offer to sell distilled spirits, malt beverages or wines to any person under the age of twenty- one (21) years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain distilled spirits, malt beverages or wines is actually twenty -one (21) years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the Trier of fact in determining whether any sale to an underage person was made knowingly. "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. "Proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

B) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.

CARROLL COUNTY ORDINANCES

C) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.

D) Individual employees who violate this section shall be subject to the penalties set forth in section 6-4-10 of this ordinance. Penalties for license holders shall be determined by the Board of Commissioners in accordance with the provisions of this ordinance.

E) As to the penalties in subsection (D), if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

Section 6-4-14 Purchase or Possession of Alcoholic Beverages by Underage Persons

A) No person under the age of twenty-one (21) years of age shall purchase or possess any alcoholic beverage.

B) No person under the age of twenty-one (21) years of age shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.

Section 6-4-15 Regulations

The Board of Commissioners shall have the authority to supplement any section of this ordinance from time to time and reserves the right to promulgate appropriate regulations for such implementation.

Section 6-4-16 Suspension of License

A) The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the Department of Community Development shall, in its sole discretion, determine appropriate:

(1) A violation by the licensee of any state or federal law or regulation, or any provision of this ordinance or the regulations promulgated under its authority;

(2) The failure of the licensee and employees or agents of the licensee to promptly report to the Sheriff's Office any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;

ALCOHOLIC BEVERAGE

(3) The violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;

(4) Operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;

(5) Failure to furnish the Department of Community Development on request any information or records that would be necessary for use in determining the licensee's compliance and qualifications under this ordinance; or

(6) To knowingly sell malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition.

(7) To knowingly sell or offer to sell malt beverages or wines or distilled spirits to any person under the age of twenty- one (21) years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain an alcoholic beverage is actually twenty-one (21) years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the Trier of fact in determining whether any sale to an underage person was made knowingly. "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. "Proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

B) Wherever this ordinance permits the Department of Community Development to suspend any license issued under this ordinance but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors shall be considered on any suspension as set out above:

a) Consistency of penalties mandated by this ordinance and those set by the Board of Commissioners.

b) Likelihood of deterring future wrongdoing.

c) Impact of the offense on the community.

CARROLL COUNTY ORDINANCES

- d) Any mitigating circumstances or remedial or corrective steps taken by licensee.
- e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
- f) The licensee's history of compliance or non-compliance with applicable alcohol related laws and regulations.

Section 6-4-17 Revocation or Non-Renewal of License

A) The Board of Commissioners shall revoke the license of any licensee:

- (1) Whose license has been suspended two (2) or more times in any consecutive 12-month period;
- (2) For any premises where alcoholic beverages have been sold or distributed during a period of suspension;
- (3) Who is convicted of a felony or any crime involving moral turpitude;

B) The Board of Commissioners may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

- (1) Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Department of Community Development;
- (2) Fails to timely give written notice of any change of ownership interest as required in Section 6-4-4;
- (3) Violates any rules or regulations promulgated by the Board of Commissioners under this Ordinance, of which the licensee has reasonable notice;
- (4) Becomes disqualified under this Ordinance to hold a license.
- (5) Whenever it can be shown that a licensee under this ordinance no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the county;
- (6) Has received a license conditioned upon the construction or renovation of the facility and has not obtained necessary permits and completed construction within two (2) years of the date said license was approved.
- (7) Violates any provisions of this Ordinance.

ALCOHOLIC BEVERAGE

(8) Violates any state law related to the sale of beer, wine, or distilled spirits, including but not limited to sales to underage persons or sales to visibly intoxicated persons.

Section 6-4-18 Hearings

A) No license shall be denied or revoked without the opportunity for a hearing as provided in this section.

B) The Department of Community Development shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any, why the proposed action should not be taken by the Department of Community Development. The notice shall:

(1) Advise of the time and place specified for the hearing, which shall be conducted at the earliest possible meeting date of the Board of Commissioners.

(2) Shall set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds;

(3) Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing; and

(4) Advise the applicant or licensee that failure to appear at the scheduled hearing will result in the intended action being taken by the Board of Commissioners.

C) After the hearing, a written decision shall be entered and provided to the applicant or licensee.

Section 6-4-19 Penalties

The Board of Commissioners shall set forth all penalties for violations of this article in accordance with the provisions of this ordinance.

ARTICLE V - PACKAGE SALES OF MALT BEVERAGES AND WINES

Section 6-5-0 Hours of Operation, Sales on Election and Christmas Day

A) The hours of operation of retail licensees for the sale of package malt beverages and wines shall be allowed daily (excluding Sundays). Wholesale licensees may deliver to licensed retailers as needed.

CARROLL COUNTY ORDINANCES

B) The wholesale and retail sale of wine and malt beverages shall be lawful during the polling hours of any election provided.

C) The wholesale and retail sale of wine and malt beverages shall be lawful on Christmas Day.

Section 6-5-1 Age of Employees

No licensee shall allow or require a person in his employment who is under the age of 18 years to dispense, serve, sell or take orders for any malt beverages or wines. This restriction does not apply to persons under the age of 18 years employed in grocery stores or drugstores who are selling said beverages.

ARTICLE VI - ALCOHOL BY THE DRINK - GENERAL PROVISIONS

Section 6-6-0 Employment of Underage Persons Prohibited; Exceptions

A) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.

B) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this ordinance without the consent of the person's legal guardian.

Section 6-6-1 Regulations as to Employees and Managers

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

A) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position by an establishment holding a license under this ordinance until such person has been cleared by the Sheriff's Office or designee indicating that the person is eligible for such employment.

B) This section shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s).

C) No permit shall be issued until such time as a signed application has been filed with the Sheriff's Office or such department's designee and upon payment of a fee that shall be established by the Board of Commissioners and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these

ALCOHOLIC BEVERAGE

applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued identification card (for example a driver's license or state issued I.D. card).

D) The Sheriff or his designee shall have a complete and exhaustive search made relative to any criminal record of the applicant. If there is no record of a disqualifying charge or of violation of this ordinance, the Sheriff's Office or his designee shall issue a permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Sheriff or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.

E) No person shall be granted an employee permit unless it appears to the satisfaction of the Sheriff's Office or his designee that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2) years of the date of application and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make a person ineligible for an employee permit. No person shall be granted an employee permit who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within two (2) years of the date of application and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense where the conviction or plea was entered pursuant to the Georgia First Offender Act, as amended, so long as the First Offender status has not been revoked.

F) An employee permit shall be issued for a period of one (1) calendar year from the date of the original application. Employee permits are issued for work at the specific licensed establishment as indicated on the employee permit application and may not be used at another licensed establishment. As noted in subsection (K) below, the employee permit must be in the possession of the employee or the employer while the employee is working at the licensed establishment. This permit must be available for inspection by members of the Sheriff's Office or the Department of Community Development staff.

CARROLL COUNTY ORDINANCES

- G) No person shall be issued an employee permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the Sheriff's Office for an employee permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then thirty (30) calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.
- H) All permits issued through administrative error can be terminated and seized by the Sheriff's Office or his designee or the Department of Community Development.
- I) Replacement permits will be issued within thirty (30) days of original date, upon paying one-half of the fee charged for employee permits. After thirty (30) days of original application date, a new application and fee must be submitted.
- J) All permits issued under this ordinance remain the property of Carroll County and shall be produced for inspection upon the demand by the Sheriff's Office or the Department of Community Development.
- K) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid county employee permit. Employee permits may be kept on the premises, or on the person of the employee. For new employees, a receipt issued by the Sheriff's Office may be used for a maximum of thirty (30) days from the date of its issue.
- L) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Sheriff's Office or his designee the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually during the months of June and December. List shall be delivered to the Sheriff's Office or his designee no later than the last day of each said month.
- M) Any person convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

Section 6-6-2 Open Area and Patio Sales

Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the Department of Community Development. These areas must also meet the requirements of the county's development and fire codes.

ALCOHOLIC BEVERAGE

Section 6-6-3 No Consumption Outside Premises

A) It is prohibited for customers to leave the premises with open alcoholic beverages except as permitted pursuant to sections 6-6-4 and 6-6-5 of this ordinance, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.

B) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

C) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

Section 6-6-4 Partially Consumed Bottles of Wine Purchased with a Meal

A) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one (1) unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.

B) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.

C) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

D) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Section 6-6-5 Bring Your Own Bottle

Brown bagging wine, malt beverages and distilled spirits shall be prohibited. All regulations as to prohibited sales as defined in Section 6-4-12 of this ordinance shall apply to this section.

Section 6-6-6 Specification of Premises

No alcoholic beverage 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 are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the county, regulations of the state revenue commissioner, and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein.

Section 6-6-7 Solicitation Prohibited

No retail consumption dealers licensed under this ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

Section 6-6-8 Audits of Licenses

A) The Department of Community Development may conduct an audit of the records and books of the licensee, after notice to the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance.

B) All licensed establishments shall maintain the following records for a three (3)-year period and make such records available for audit at the licensed premises:

ALCOHOLIC BEVERAGE

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly state sales and use tax reports.
- (5) Federal income tax return with all Form 1099s.

A) The Board of Commissioners may waive all or some of the requirements of subsection (B) upon a determination that no such records exist and that the licensee cannot practically maintain such records based on the net income of the licensed establishment.

Section 6-6-10 Retail Consumption Dealers to Store Inventory only on Premises

No retail consumption dealer licensed under this ordinance shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

Section 6-6-11 Poured Alcohol to be Transported only by Employees

Poured alcoholic beverages shall be transported from point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received an employee pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.

Section 6-6-12 Inspections

Sworn officers of the Sheriff's Office shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the county during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of this ordinance.

Section 6-6-13 Establishment May be Closed in Cases of Emergency

The Sheriff's Office may immediately close an establishment licensed under this ordinance in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

Section 6-6-14 Compliance with Existing Adult Entertainment Ordinance

In accordance with Carroll County Adult Entertainment Ordinance, no alcohol license may be issued to an Adult Entertainment Establishment.

Section 6-6-15 Happy Hour - Promotions and Sales

A) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:

- (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
- (2) Deliver more than one alcoholic beverage to one person at a time,
- (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
- (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;
- (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one (1) day at prices less than those charged the general public on that day, except at private functions not opened to the public;
- (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two (2) or more persons at any one time;
- (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; or
- (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

B) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.

ALCOHOLIC BEVERAGE

- C) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (A) of this section.
- D) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
- E) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.
- F) The Sheriff's Office and the Department of Community Development shall have responsibility for the enforcement of this article.
- G) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately, and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.
- H) Any person deemed guilty of violating this section may be punished by a fine not to exceed \$1,000.00 and/or by imprisonment not to exceed thirty (30) days in the common jail of the county. Licensees may further be subject to revocation proceedings.

ARTICLE VII - DISTILLED SPIRITS BY THE DRINK

Section 6-7-0 Locations where Permitted

No distilled spirits may be sold by the drink for consumption on the premises where sold except: A) In sites zoned Commercial, Industrial and Planned Unit Development and:

- (1) Has certified "Resort Status" as defined applicable Georgia State law.
- (2) That is an eating establishment regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department. Such Restaurant will regularly serve food every hour the Restaurant is open and shall derive at least 50% of the establishment's total annual gross sales from food;
- (3) That is an indoor commercial recreation establishment regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment

CARROLL COUNTY ORDINANCES

pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities; or

(4) That is an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department; prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

Section 6-7-1 Hours and Days of Sale

- A) Monday 10 a.m. to 12 a.m.
- B) Tuesday 10 a.m. to 12 a.m.
- C) Wednesday 10 a.m. to 12 a.m.
- D) Thursday 10 a.m. to 12 a.m.
- E) Friday 10 a.m. to 12 a.m.
- F) Saturday 10 a.m. to 12 a.m.
- G) Sunday No Sales.

H) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the Board of Commissioners.

Section 6-7-2 Consumption Sales Only

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any distilled spirit by the package or bottle.

ARTICLE VIII - MALT BEVERAGES AND WINE BY THE DRINK

Section 6-8-0 Type of Retail Establishment Where Permitted

No beer or wine shall be sold for consumption on the premises where sold except:

In sites in areas zoned Commercial, Industrial and Planned Unit Development and which are being used as one of the following:

a. Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department. Such Restaurant will regularly serve food every hour the Restaurant is open and shall derive at least 50% of the establishment's total annual gross sales from food;

(2) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department. Such establishment will regularly serve food every hour the restaurant is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities;

(3) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Environmental Health Department; prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or

(4) At a golf course that derives at least 50% of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf. These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

CARROLL COUNTY ORDINANCES

Section 6-8-1 Hours and Days of Sale

- A) Monday 10 a.m. to 12 a.m.
- B) Tuesday 10 a.m. to 12 a.m.
- C) Wednesday 10 a.m. to 12 a.m.
- D) Thursday 10 a.m. to 12 a.m.
- E) Friday 10 a.m. to 12 a.m.
- F) Saturday 10 a.m. to 12 a.m.
- G) Sunday No Sales.
- H) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the Board of Commissioners.

ARTICLE IX - CATERING

Section 6-9-0 Requirements

Requirements for a "Licensed Alcoholic Beverage Caterer" license:

- (1) Eating establishments, indoor commercial recreation establishments, and permitted special event venue operators located in unincorporated Carroll County and that hold an alcohol by the drink license in accordance with Articles VII, VIII, and IX of this ordinance are the only establishments authorized to cater in the unincorporated areas of Carroll County. Such restaurants and indoor commercial recreation establishments must also comply with all provisions of this article.
- (2) The applicant shall hold a valid state license to sell malt beverages, wine, distilled spirits or some combination thereof by the drink for consumption on the premises.
- (3) The applicant shall hold a valid local county license to sell malt beverages, wine, distilled spirits, or some combination thereof, by the drink for consumption on the premises.
- (4) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1 et seq.

ALCOHOLIC BEVERAGE

- (5) The applicant must hold all required food service permits required by the County Environmental Health Office.

Section 6-9-1. Application

An applicant for a Licensed Alcoholic Beverage Caterer license must:

- (1) Submit a completed application provided by the county.
- (2) Pay the required application and license fees.

Alcoholic Beverage Caterer licenses are valid for one calendar year. They are issued and must be renewed in the same manner as their corresponding retail licenses.

Section 6-9-2. Permitted Activities

Only a Licensed Alcoholic Beverage Caterer is authorized to sell alcoholic beverages off premises. Licensed Alcoholic Beverage Caterers are authorized to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises under the following conditions:

- (1) The distribution of alcoholic beverages is in connection with an "authorized catered event" for which a "Special Event Alcohol Permit" has been granted authorizing said event. The requirements for "Special Event Alcohol Permits" are detailed in Article XI of this Ordinance.
- (2) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage authorized by the caterer's local alcoholic beverage license.
- (3) The licensed alcoholic beverage caterer shall not employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages in accordance with O.C.G.A. §3-11-4 et seq.
- (4) The licensed alcoholic beverage caterer complies with the requirements of O.C.G.A. §3-11-1 et seq.
- (5) The licensed alcoholic beverage caterer complies with the requirements contained in Articles II through IV and Section 6-6-0 and 6-6-2 of Article 6 of this Ordinance.

Section 6-9-3 Restaurants

Eating establishments which hold an alcohol by the drink license in accordance with Articles VII, VIII and or IX of this ordinance may cater events within the unincorporated areas of Carroll County so long as said establishments comply with this article.

Section 6-9-4 Exceptions

For events where alcoholic beverages are furnished by the host, which are not open to the public and at which no admittance fee, cup fee, or by the drink fee is required, the event holder shall be exempt from the requirements of this Ordinance. However, if alcoholic beverages are to be provided at such an event by a licensed alcoholic beverage caterer, then the requirements of this Ordinance must be met.

ARTICLE X - PRIVATE CLUBS

Section 6-10-0 Definitions

As used in this article:

A) "Private club" means any nonprofit association organized under the laws of this state which: (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;

(2) Has at least seventy-five (75) regular dues paying members;

(3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:

(a) A suitable kitchen and dining room space and equipment; and

(b) A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

(c) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

B) "Fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

Section 6-10-1 Regulation or Sale of Alcoholic Beverages

A private club may seek a license for retail sales of alcoholic beverages for consumption on the premises in accord with this ordinance. Licensed private clubs may sell and

ALCOHOLIC BEVERAGE

dispense alcoholic beverages by the drink for consumption on the premises upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the county.

Section 6-10-2 Certain Organization Exempt from Food Establishment Requirements

Veteran's organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments.

Section 6-10-3 Investigative and Administrative Costs

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check in the amount of the investigative/administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the cost paid for investigative and administrative cost shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

Section 6-10-4 Hours and Days of Sale

- A) Monday 10 a.m. to 12 a.m.
- B) Tuesday 10 a.m. to 12 a.m.
- C) Wednesday 10 a.m. to 12 a.m.
- D) Thursday 10 a.m. to 12 a.m.
- E) Friday 10 a.m. to 12 a.m.
- F) Saturday 10 a.m. to 12 a.m.
- G) Sunday No Sales.
- H) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the Board of Commissioners.

ARTICLE XI- SPECIAL EVENT PERMITS

Section 6-11-0 Eligibility for a Temporary Special Event Alcohol Permit

A) A temporary special event alcohol permit may be issued to any person, firm or corporation for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by this ordinance and shall be required to comply with all the general provisions of this ordinance and the licensing and regulations for consumption on the premises establishment with the exception of the full service kitchen requirement.

B) Special Event Alcohol Permits shall be obtained for the following:

(1) Events catered pursuant to the regulations established in Article IX of this ordinance.

(2) The special event must meet the following criteria before the issuance of a permit to sell or distribute alcoholic beverages:

(3) The special event must receive approval from the Sheriff's Office on crowd control and security measures.

(4) The special event must receive approval from the Sheriff's Office, on traffic control measures.

C) The premises where the special event shall occur shall meet the distance from certain uses requirements of this Ordinance.

D) Any employee or volunteer of the special event permit holder, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall be required to obtain an employee permit for the special event. Employees or volunteers dispensing, selling, serving, taking orders or mixing alcoholic beverages must be eighteen (18) years of age or older. Employees of caterers must comply with the regulations established in Article 10 of this ordinance and must be twenty-one (21) years of age or older as pursuant to O.C.G.A. §3-11-4.

E) The Sheriff's Office or his designee may immediately revoke any temporary permit for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.

F) As a condition on the issuance of a temporary special event permit, the permit holder shall indemnify and hold Carroll County harmless from claims, demand or cause of action that may arise from activities associated with the special event.

ALCOHOLIC BEVERAGE

G) The Director of Community Development shall issue the temporary special event permit to the applicant upon compliance with the terms hereof.

H) In the event that a special event alcohol permit is denied by the Director of Community Development , the applicant may appeal the decision to the Board of Commissioners.

Section 6-11-1 BONA FIDE NON PROFIT CIVIC ORGANIZATIONS

A) A bona fide non-profit civic organization is one which is exempt from federal income tax pursuant to the provisions subsections (c),(d) or (e) of 26 U.S.C. Section 501.

B) Upon the filing of an application and the payment of a special temporary event permit application fee, a bona fide non-profit civic organization may obtain a permit authorizing the organization to sell or distribute alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three (3) days, subject to any law regulating the time for selling such beverages.

C) No more than twelve (12) permits may be issued to an organization in any one calendar year.

D) Permits are valid only for the location specified in the permit. No permit may be issued unless the sale of alcoholic beverages is lawful in the place for which the permit is issued. Said permit is subject to the restrictions set forth in section 6-11-0 of this ordinance.

ARTICLE XII - HOTEL IN-ROOM SERVICE

Section 6-12-0 License

A) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom that contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.

B) Any hotel-motel that acquires this in-room service must also obtain consumption on the premises license and shall meet requirements of this ordinance.

CARROLL COUNTY ORDINANCES

C) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee set forth in the Carroll County Alcohol Fees Schedule shall be imposed to provide only beer and/or wine by "in-room service."

D) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.

ARTICLE XIII - FARM WINERIES

Section 6-13-0 Definitions

A) "Farm Winery." As used in this ordinance, the term "farm winery" means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or domestic winery that makes at least 40% of its annual production from locally grown agricultural produce.

B) "Tasting Room On Premise." The term "tasting room" shall mean an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine may be given complimentary or for a fee.

C) "Tasting Room Off Premise" The term "tasting room off premise" shall mean an outlet for the promotion of a farm winery's wine to the public and for the sale of such wine at retail for consumption on the premise and for the sale in closed packages for sale off the premise. Such outlets may only sell farm wines and no other commercially branded alcohol. Such outlets shall be located in a zoning district which allows retail sales.

Section 6-13-1 Permitted Sales

A farm winery may sell its wine and the wine of any other winery licensee at retail in a tasting room or other facility on the premises of the winery for consumption on the premises and in closed packages for consumption off the premises. Additionally, a farm winery may sell its wine and the wine of any other winery licensee at retail for consumption on the premises and in closed packages for consumption off the premises in tasting rooms at a location within Carroll County.

Section 6-13-2 Licensee Qualifications

The qualifications for the license for sale by farm winery tasting room shall be the same as set forth in Section 6-13-3 of this Ordinance.

Section 6-13-3 Applicable Provisions

The following provisions of this Ordinance regarding qualifications of the licensee and other matters shall apply to the issuance of the license for sale by a farm winery tasting room and the operation thereof:

Article I - Section 6-1 Definitions,

Article IV - General Provisions- All Licenses,

Article VI- Package Sales of Malt Beverages and Wines

Article VII - Alcohol by the Drink - General Provisions

Section 6-13-4 License Fees

The applicant for a retail license for the sale of wine and operation of a farm winery tasting room shall pay the license fee as set forth in the Fee Schedule.

Section 6-13-5 Licensing Limitations

The license created in accord with this Article shall be limited to farm winery tasting rooms licensed by the State of Georgia in accord with O.C.G.A. §3-6-21.1, et seq., and the licensee shall be permitted to perform only acts allowed in accord with such statutes. No license is hereby created authorizing any other use.

Section 6-13-6 Sunday Sales

No Sunday sales shall be allowed.

Section 6-13-7 Hours of Sale

Wine may be sold or distributed in a tasting room or other licensed farm winery at the following days and times:

- | | | |
|----|-----------|--------------------|
| A) | Monday | 10 a.m. to 12 a.m. |
| B) | Tuesday | 10 a.m. to 12 a.m. |
| C) | Wednesday | 10 a.m. to 12 a.m. |
| D) | Thursday | 10 a.m. to 12 a.m. |
| E) | Friday | 10 a.m. to 12 a.m. |
| F) | Saturday | 10 a.m. to 12 a.m. |
| G) | Sunday | No Sales. |

ARTICLE XIV - INCORPORATION OF STATE STATUTES, SEVERABILITY, REPEALER, ETC.

Section 6-14-0 Incorporation of other Statues

The Board of Commissioners of Carroll County hereby adopts and incorporates within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

- 1) O.C.G.A. §3-3-40. Definitions.
- 2) O.C.G.A. §3-3-41. Performance of actual or simulated sexual acts.
- 3) O.C.G.A. §3-3-42. Employee solicitation of patrons of drinks on premises.
- 4) O.C.G.A. §3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
- 5) O.C.G.A. §3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.
- 6) O.C.G.A. §3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.
- 7) O.C.G.A. §3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

Section 6-14-1 Severability

If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if a provision of any part of this ordinance is applied to any particular situation or set of circumstances in such a manner as to be declared invalid or unconstitutional, then any such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid and the application of this ordinance to other circumstances shall not be held to be invalid. The Carroll County Board of Commissioners hereby declares the intent of Board of Commissioners is to provide for separable and divisible parts, and the Board of Commissioners hereby adopts any and all parts hereof as may not be held invalid for any reason.

Section 6-14-2. Repealer

All resolutions or ordinances or parts thereof in conflict with the terms of this ordinance are hereby repealed.

Alcohol Ordinance of Carroll County

Fee Schedule

Malt Beverages, Wholesale	\$2,000
Malt Beverages, Retail Package	\$600
Malt Beverages, by the drink for consumption on premises	\$900
Wine, Wholesale	\$600
Wine, Retail Package	\$600
Wine, by the drink for consumption on premises	\$700
Distilled Spirits, Wholesale	\$3,500
Distilled Spirits, by the drink for consumption on premises	\$4,500
Licensed Alcoholic Beverage Caterer	\$250
Farm Winery	\$100
Special Event Alcohol Permit	\$50 per day
Employee Permit	\$25
Hotel-Motel in Room Service Permit	\$300

These fees were adopted by the Carroll County Board of Commissioners on August 6, 2013.


Marty W. Smith, Chairman

ATTEST:


Susan A. Mabry, County Clerk