

Ordinance # 442

AN ORDINANCE REGULATING THE PERMITTING OF ALCOHOLIC BEVERAGES; ESTABLISHING STANDARDS AND LIMITATIONS FOR REGULATIONS; MAKING UNLAWFUL CERTAIN OTHER ACTIVITY IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR THE PERMITTING AND REVOCATION THEREOF FOR CERTAIN USERS.

WHEREAS, all incorporated towns in the State of Tennessee are authorized to pass proper ordinances; and

WHEREAS, the power of said towns shall in no event be greater than the power granted by the State of Tennessee to any city or county government but may impose additional restrictions, fixing zones and territories, and provide hours of opening and closing and such other rules and regulations; and

WHEREAS, the Town of Carthage desires to regulate the sale of alcoholic beverages within its city limits; and

WHEREAS, the Town of Carthage desires to delete and replace 'CHAPTER 1, INTOXICATING LIQUORS' of Title 8 of the Carthage Municipal Code with the following sections entitled 'Chapter 1, Section 8-101 through section 8-114. INTOXICATING LIQUORS – STORES' by Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF SO CARTHAGE, TENNESSEE THAT THE FOLLOWING SHALL BE ADOPTED:

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Alcoholic beverages subject to regulation.

8-102. Application for certificate.

8-103. Applicant to agree to comply with laws.

8-104. Applicant to appear before board of mayor and aldermen; duty to give information.

8-105. Action on application.

8-106. Applicants for certificate who have criminal record.

8-107. Only one establishment to be operated by retailer.

8-108. Where establishments may be located.

8-109. Retail stores to be on ground floor; entrances.

8-110. Limitation on number of retailers.

8-111. Sales for consumption on premises.

8-112. Radios, amusement devices and seating facilities prohibited in retail establishments.

8-113. Inspection fee.

8-114. Privilege Tax

8-115. Violations and penalty.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this Town except as provided by *Tennessee Code Annotated*, title 57.

8-102. Application for certificate. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the recorder on a form to be provided by the city/town, giving the following information:

- Name, age and address of the applicant.
- Number of year's residence at applicant's address.
- Occupation or business and length of time engaged in such occupation or business.
- Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any Town ordinance, and the details of any such conviction.
- If employed, the name and address of employer.
- If in business, the kind of business and location thereof.
- The location of the proposed store for the sale of alcoholic beverages.
- The name and address of the owner of the store.
- If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

8-103. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city/town and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages.

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board.

8-105. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city/town attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. As a part of the application process, a background check will be performed if not completed by T.A.B.C.

The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen.

8-106. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-107. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city/town. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

8-108. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the Town except at locations zoned for that purpose as follows:

- No retail liquor establishment shall be located within one hundred fifty (150 ft.) feet with all measurements of distances measured from the front door of the principal structure housing the church, school, publicly licensed or governmentally operated day care center or public gathering place to the front door of the structure where any alcoholic beverage is sold, warehoused or distributed.
- No retail liquor establishment shall be located other than in the C1 C2 C3 commercial district.

8-109. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city/town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

- a. All Retail Liquor stores shall be designed and constructed as follows:
 1. Shall be a permanent structure in conformance with materials and design as outlined in the Carthage Zoning Ordinance in the applicable Zoning Districts.
 2. The minimum square footage of any store shall be One Thousand Two Hundred (1,200) square feet with full, free and unobstructed vision afforded to and from the street and public highway to the interior of the store by way of large windows in the front and, to the extent practical, to the sides of the building with no seating facilities (except for employees on duty at the store)

8-110. Limitation on number of retailers No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

8-111. Sales for consumption on premises. Restaurants serving a full course food menu may allow the consumption of alcoholic beverages as defined in this chapter on premises and under the terms and conditions within this title. Restaurants may furnish set-ups for use in consumption of alcoholic beverages as long as they comply with the setup tax provisions of Tennessee Code Annotated, § 57-4-301. Provided, however, that nothing in this section permits the sale of liquor by the drink except where the establishment meets the private club exception under Tennessee Code Annotated, title 57, chapter 3. Restaurant and limited service restaurants are required to maintain minimum seating for forty-five (45) people.

8-112. Radios, amusement devices and seating facilities prohibited in retail establishments. No pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

8-113. Inspection fee. The Town of Carthage hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the Town.

8-114. Privilege Tax. An annual Privilege Tax in the amount of six hundred and fifty dollars (\$650.00) will be assessed to each restaurant within the corporate limits of the town that participates in the sale of liquor.

8-115. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city/town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

This Ordinance shall take effect from and after its final passage, the public welfare requiring it.

Dated the 17TH day of January, 2017.

Mayor

Attest: _____
City Recorder

Passed First Reading: 11/28/16

Passed Second Reading: 12/01/16

Public Hearing Held: 1/17/17

Passed Third Reading 1/17/17