

**AMENDED ORDINANCE OF THE CITY OF CARTHAGE
REGULATING THE RETAIL SALE OF BEER**

WHEREAS, A majority of the qualified electors City of Carthage approved the sale of beer, November 5, 1991.

WHEREAS, the Mayor and Board of Aldermen adopted an ordinance to regulate the sale of beer in the City of Carthage, November 11, 1991, and it has come to the attention of the Board that said ordinance should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CARTHAGE, MISSISSIPPI, the amended ordinance for the sale of beer in the City of Carthage, Mississippi, shall be as follows:

SECTION 1: SALES AUTHORIZED

Subject to the provisions of this ordinance, the sale of beer of an alcohol content of not more than four percent (4%) by weight shall be allowed within the City limits of Carthage, Mississippi.

SECTION 2: PRIVILEGE LICENSE REQUIRED

Any person, partnership, firm, or corporation desiring to engage in the business of selling beer at retail shall pay the city a privilege license tax at the same rate as that imposed by Section 27-71-303 and 27-71-345, of the Mississippi Code of 1972, annotated and as amended, for the purpose of engaging in such business and shall file with the City Clerk of the City of Carthage, Mississippi, an application showing that said person, partnership, firm, or corporation possess all the requirements

provided for in this ordinance. Further, said applicant shall present with the application a permit as required by Section 67-3-17 and 67-3-23, of the Mississippi Code of 1972, annotated and as amended. All such City privilege licenses shall be applied for and renewed annually and shall expire on September 1 of each year. Said licenses shall be displayed conspicuously in licensees' place of business and shall not be transferable. It shall be unlawful for any person, partnership, firm, or corporation to engage in the business of the retail sale of beer of an alcoholic content of more than 4% by weight without having first applied for and obtained from the City Clerk and Tax Collector a privilege license to engage in such business as aforesaid.

SECTION 3: APPLICATION REQUIRED

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

The applicant shall further show in his sworn application for a license that he, the partnership, firm,

or corporation possesses the following qualifications:

- (A) Applicant must be over 21 years of age and a person of good moral character, a citizen of the United States and a resident of the State of Mississippi.
- (B) Applicant shall not have been convicted in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution.
- (C) Applicant shall not have been convicted in this or any other state within five (5) years preceding the date of his application of any laws of this or other states, or of the United States relating to alcoholic liquors or gambling or have had revoked any license or permit to sell alcoholic liquors of any kind within said period of time.
- (D) Applicant shall be the owner of the premises for which the permit is sought or the holder of a bona fide written lease thereupon, and evidence of said interest in real property shall be filed with the Chancery Clerk of Leake County, Mississippi.
- (E) If applicant is a partnership or firm, all members of the partnership or firm must be named and shall be qualified to obtain a license.
- (F) If applicant is a corporation, all officers and directors thereof, and the person or persons who shall conduct and maintain the licensed premises for the corporation shall possess all the qualifications required herein for an individual permittee; provided however, that the requirements as to residents shall not apply to officers, directors, and stockholders of such corporation, but such requirements shall apply to any

officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises in any capacity, in the conduct or operation of the licensed premises.

SECTION 4: LOCATION TO BE IDENTIFIED

In addition to the foregoing information required as to said application, the said application shall give the location of the proposed site for such sale, and the Mayor and Board of Aldermen reserve the right to determine whether or not such business shall be permitted to conduct the sale of beer at such location, and no permit shall be granted to any person, firm, partnership, or corporation where it is apparent that the same shall be conducted in such close proximity to any church sanctuary, school main entrance, or kindergarten as might prove harmful to the general welfare, health, and morals of the community. Under no circumstances shall such business be located closer to an established church, school, or kindergarten, than 400 feet measured from the front door of said business along the center line of the street to the front door of any established church sanctuary, school main entrance, or kindergarten. However, where the church sanctuary, school main entrance, or kindergarten is established after the original enactment of the beer ordinance on November 11, 1991, causing a business operation legally licensed to sell beer to be in conflict with the above provision, the restricted distance shall not apply even if the business holding a beer permit should be sold or closed and subsequent owners operating a business in the same location apply for a beer permit.

SECTION 5: PARENTAL CONSENT/OTHER

A person who is at least eighteen (18) years of age, but

under the age of twenty-one (21) may possess and consume beer with the consent of his parent or legal guardian in the presence of his parent or legal guardian, and it shall not be unlawful for the parent, legal guardian, or spouse such person to furnish beer to such person who is at least eighteen (18) years of age.

A person who is at least eighteen (18) years of age and who is serving in the armed services of the United States may lawfully possess and consume beer on military property where the consumption of beer is allowed.

A person who is under twenty-one (21) years of age shall not be deemed to unlawfully possess or furnish beer, if in the scope of his employment such person:

- (A) Clears or buses tables that have glasses or other containers that contain or did contain beer;
- (B) Waits on tables by taking orders for beer; or
- (C) Stocks, bags, or otherwise handles purchases of beer at a store.

SECTION 6: RIGHT OF INSPECTION

The Mayor and Board of Aldermen shall have the power and authority to demand the inspection of all invoices, sales tax reports, and other business papers or records which would reflect the true amount of sales being made by a licensed business being derived from the sale of groceries. The Mayor and Board of Aldermen shall have the right to demand such records at least quarterly, or more often, if the Mayor and Board of Aldermen shall have any reason to believe that the business selling is not deriving 50% or more of gross sales from the sale of groceries. The failure to furnish said records to the Mayor and Board of Aldermen or to any designated

employee of the City of Carthage shall be a violation of the ordinance and shall be punishable as herein provided. Further, the Mayor and Board of Aldermen shall immediately revoke the license of any person, partnership, firm, or corporation refusing to furnish said records to the Mayor and Board of Aldermen or any designated employee of the City of Carthage.

SECTION 7: CONSUMPTION RESTRICTIONS

It shall be unlawful for any person within corporate limits of the City of Carthage, Mississippi, to consume beer on the streets, avenues, sidewalks, alleys, or City owned property.

SECTION 8. UNLAWFUL ACTS

It shall be unlawful for any person, partnership, firm, business, or corporation, as the holder of a permit authorizing the sale of beer at retail or the employee of the holder of such permit to violate the provisions of Paragraphs (b)(c)(d)(e)(f)(g) of Section 67-3-53, M.C.A. 1972, now effective or hereafter amended. The unlawful acts provided in said Section 67-3-53 and other unlawful acts are defined as follows:

(A) To sell beer in any type business establishment other than a grocery store or convenience store. Further, that a grocery store or convenience store is hereby declared to be a store deriving 50% or more of its gross sales from the sale of groceries, and if such a store or business does not derive 50% or more of gross sales from the sale of groceries, the said business or store shall not qualify for the sale of beer. In determining gross sales of groceries the sale of

gasoline shall not be included.

(B) To sell, dispense, or give beer to anyone before 5:00 o'clock a.m. or after 11:00 o'clock p.m.

(C) To sell, dispense, or give beer to anyone at any time on Sunday.

(D) To sell, dispense, or give to anyone a quantity of beer of less than a four pack. (sale of kegs and sale of light wine in 750 ml and 1.5 liter container sizes will be permitted).

(E) To permit consumption of beer on the premises of the store or business establishment selling beer.

(F) To sell, give or furnish any beer to any person visibly or noticeably intoxicated, or to any insane person, to any habitual drunkard, or to any person under the age of twenty-one (21) years.

(G) To permit lewd, immoral, loud, boisterous, or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community wherein such business is located.

(H) To permit persons of ill repute, known criminals, prostitutes, or minors to frequent the licensed premises, except minors accompanied by parents or guardians, or under proper supervision.

(I) To sell, dispense, or give away beer without having paid the privilege tax to the City of Carthage, Mississippi, as provided by this ordinance.

(J) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises.

(K) To work or employ anyone under 18 years of age in said place, business, or establishment where beer is sold, except under proper and constant supervision of the adult owner or owners or an adult employee or employees.

(L) To receive, possess or sell on the licensed premises any beverage of any kind or character containing more than four percent (4%) of alcohol by weight unless the license also possesses an on-premises permit under the Local Option Alcoholic Beverage Control Law.

SECTION 9: PENALTY FOR VIOLATION

If the holder of a beer permit as referred to in Section 8 above or the employee of the holder of a permit, shall be convicted of selling any beer to any person under the age of twenty-one (21) years from the licensed premises in violation of Section 67-3-53(b), MCA 1972, then, in addition to any other penalty provided for by law, the holder of the permit may be punished as provided in Section 67-3-69(3), MCA 1972, as follows:

(a) For the first offense on the licensed premises, the holder of the permit may be fined in an amount not to exceed Five

Hundred Dollars (\$500.00) and/or the sale of beer on the premises from which the sale occurred may be prohibited for three (3) months.

- (b) For a second or subsequent offense occurring on the licensed premises within twelve (12) months of the first offense, the holder of the permit may be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) and/or the sale of beer on the premises from which the sale occurred may be prohibited for six (6) months.

A person who sells any beer to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and physical description consistent with his appearance for the purpose of inducing the person to sell beer to him.

SECTION 10: OTHER VIOLATIONS AND PENALTIES

Except as otherwise provided by Section 5, any person under the age of twenty-one (21) years who purchases or possesses any beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00) and/or a sentence to

not more than (30) days community service.

Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any beer shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) and/or a sentence to not more than (30) days community service.

Except as to persons referred to in Section 5 and Section 8, any person who knowingly purchases beer for, or gives or makes available beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and/or a sentence to not more than thirty (30) days' community service.

Any person, partnership, firm, or corporation violating any provision of this ordinance for which a penalty is not herein provided, shall be fined not in excess of \$500.00 or imprisoned in jail for not in excess of six (6) months or be punished by both such fine and imprisonment and each and every violation shall be a separate offense and separate fines and imprisonment may be assessed for each offense.

The term "community service" as used in this section shall mean work, projects, or services for the benefit of the community assigned, supervised, and recorded by appropriate public officials.

The Mayor and Board of Aldermen may suspend or revoke the license of any retailer of beer who has been convicted of violating this

ordinance, and such revocation of a license shall be in addition to and not in lieu of a limitation of any other penalty provided by this ordinance.

SECTION 11: ZONING CLASSIFICATIONS

The sale of beer shall not be permitted in the City of Carthage except in Districts zoned commercial or industrial according to the zoning ordinance of the City of Carthage.

SECTION 12: RESTAURANTS

Notwithstanding any of the other provisions of this ordinance, the sale of beer by the drink or in individual containers shall be lawful within restaurants and cafes. Restaurants and cafes shall be defined as those establishments which are in the business of preparing and serving food for consumption within the premises and who derive 75% of their gross receipts from the sale of prepared food. Such sales shall be permitted between hours of 10:00 a.m. and 11:00 p.m. Monday through Saturday. No restaurants may serve beer outside an enclosed structure.

SECTION 13: PRIVATE CLUBS

Notwithstanding any of the other provisions of this ordinance, the sale of beer of an alcohol content of not more than four percent (4%) by weight by the drink or in individual containers shall be lawful within and on the premises of a private club.

Private clubs shall be defined as those establishments which are private non-profit corporations operating on a non-profit basis, solely for the benefit and enjoyment of its members. Said non-profit corporations may not be operated under a for-profit

management contract or arrangement with any other organization and shall file with the City Clerk annually a copy of its state and federal income tax returns or a financial statement showing all income and expenses. Private clubs may be located in areas zoned other than commercial or industrial.

SECTION 14: OUTDOOR ADVERTISING

It shall be unlawful for any person, firm, partnership, or corporation licensed by the City of Carthage to sell beer, to advertise the sale of such beer by the use of any type of sign located outside the building or by use of any type sign located within said building which is visible from the outside.

SECTION 15: POSSESSION

It shall be lawful for any person over the age of twenty-one (21) years to possess beer of an alcohol content of more than four percent (4%) by weight within the city limits of Carthage, Mississippi.

SECTION 16:

All ordinances or parts thereof and all amendments thereto which are contrary to or inconsistent with this ordinance or parts hereof be and they are hereby repealed and held for naught.

SECTION 17:

This ordinance shall become effective thirty (30) days after adoption.

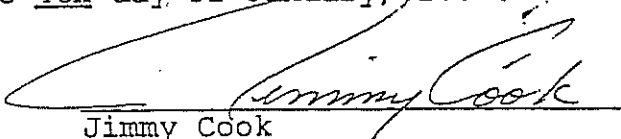
The foregoing Ordinance was reduced to writing and was read and considered, section by section, and then as a whole by the Mayor and Board of Aldermen of the City of Carthage, Mississippi, at a recessed meeting of said Board held on the 4th day of January, 2000, wherein Alderman Matlock moved that it be adopted in its

entirety. The motion to adopted was seconded by Alderman Gross
and being put to a vote, the result was as follows:

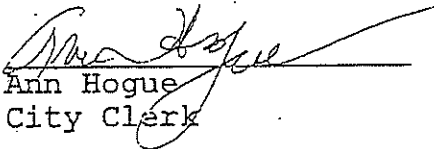
Alderman Lynda Gross voted Aye;
Alderman Terry Jones voted Aye;
Alderman Frank Matlock voted Aye;
Alderman David Herrington voted Aye;

The motion having received the affirmative vote of all
Aldermen present, the Mayor declared the same carried.

SO ORDAINED, this the 4th day of January, 2000.


Jimmy Cook
Mayor

ATTEST:


Ann Hogue
City Clerk