AGENDA FOR THE REGULARLY SCHEDULED CITY OF COLLEGEDALE COMMISSION MEETING TO BE HELD IN THE MUNICIPAL BUILDING IN COLLEGEDALE, TENNESSEE, ON MONDAY, JANUARY 3, 2011 AT 6:00 P.M.

I. Call to Order by the Mayor

II. Invocation

III. Roll Call by City Recorder

IV. Approval of previous meeting minutes

1. December 20 , 2010 – Commission Meeting
2. December 27, 2010 – Commission Workshop

V. Comments from Citizens

VI. Unfinished Business

1. None

VII. New Business

1. **Firstl Reading**
   Ordinance # 764, Liquor by the Drink Regulations

2. New member of Parks and Recreation Board
   ~Requested by Commissioner Hanson ~

VIII. Request for reports from City Administration/Commissioners by the Mayor

IX. Adjournment

Ordinance No.764

AN ORDINANCE OF THE CITY OF COLLEGEDALE, TENNESSEE ALLOWING THE SALE OF INTOXICATING LIQUOR ON PREMISE AND ADOPTING A PRIVILEGE TAX ON RETAIL SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, REGULATING "BROWN BAGGING" AND SETTING THE HOURS FOR THE SALE OF BEER.

WHEREAS, at the general election in November, 2010, the voters of the City of Collegedale approved the legal sale of alcoholic beverages for consumption on the premises in the City of Collegedale, Tennessee; and

WHEREAS, it is therefore necessary to enact regulations relative to such sale, and to revise other aspects of Title 8 of the City Code to reflect changes in the law brought about by the referendum, and to further regulate the practice of "brown-bagging";

Now, therefore, be it ordained by the Board of Commissioners of the City of Collegedale, Tennessee as follows:

Section 1: Section 8-101 of the Municipal Code is repealed in its entirety.

Section 2: Title 8, Chapter 1 of the Municipal Code is hereby amended to state as follows:

8-101. Definitions. As used in this chapter, unless the context indicates otherwise: All of the definitions and provisions of Tennessee Code Annotated, section 57-3-101 are adopted for the the interpretation of this chapert and are made applicable to the sale and regulation of alcoholic beverages within the City.

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Collegedale, Tennessee. It is the intent of the Board of Commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Collegedale, Tennessee, the same as if said code sections were copied herein verbatim.

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in the same amounts authorized by T.C.A., title 57, chapter 4, section 301, for the City of Collegedale General Fund to be paid annually as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Collegedale on alcoholic beverages for consumption on the premises where sold.

8-104. Annual privilege tax to be paid to the City Recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages

for consumption on the premises in the City of Collegedale shall remit annually to the City Recorder the appropriate tax described in 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-105. Concurrent sales of liquor by the drink and beer. In order to concurrently sell liquor by the drink and beer, any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Collegedale, pursuant to Tennessee Code Annotated, Title 57, Chapter 4 shall also qualify to receive a beer permit from the City for on-premises consumption as required by Chapter 2 of this title.

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated Title 57, Chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission.

8-107. Location of any establishment selling alcoholic beverages. No establishment selling alcoholic beverages for consumption on the premises shall be located within three hundred (300) feet of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the alcoholic beverage will be sold to the nearest point on the property line of the school, residence, church or other place of public gathering.

Section 2: Exercising the authority conferred by TCA § 57-5-301(b)(5), Section 8-218 of the Municipal Code relative to the sale of beer is adopted as follows:

8-218. Hours of Beer Sales Allowed.

a) For on premesis consumption, beer as defined herein to may not be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday unless the local jurisdiction has opted out of the expanded hours.

b) For off premesis consumption, the sale of beer as defined shall be permitted seven (7) days a week, twenty-four (24) hours a day.

Section 3: A new Title 8, Chapter 3 of the Municipal Code is enacted as follows:

8-301. Brown bagging and corkage, generally. The provisions of this article shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit as provided in Title 8, Chapter 2 of the City Code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the Alcoholic Beverage Commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201.

8-302. Definitions. As used in this article, the following definitions shall apply:

(1) "Brown bag" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.

(2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

(3) "Person selling setups for mixed drinks" shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

(4) "Setups for mixed drinks" shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment.

8-303. Beer board and police to enforce article. (1) The Beer Board shall issue permits, and revoke or suspend licenses issued for the activities described in Section 8-108, except where such action would be inconsistent with any specific provision of this article.

(2) The city police and building inspector shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging.

8-304. Hours regulated. No permittee under this article shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 11:00 P.M. and 10:30 A.M. on any day of the week. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours.

8-305. Sales to incapacitated or incompetent persons prohibited. No permittee under this article shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons.

8-306. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this article .without being in full compliance with Tennessee Code Annotated, § 57-3-704.

8-307. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this article so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above.

8-308. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises.

8-309. Permit; required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging.

8-310. Application; fee. (1) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this article, and report all findings to the Beer Board. The Beer Board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.

(2) The application shall be accompanied by a fee one hundred dollars ($100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars ($50.00) every year thereafter to be paid on or before January 1 of each year.

8-311. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor.

8-312. Grounds for refusal. (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this article has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within three hundred (300) feetof any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the

nearest point on the property line upon which sits the building in which the brown-bagging occurs to the nearest point on the property line of the school, residence, church or other place of public gathering.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in paragraph (2) of this section.

(4) The Beer Board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(5) To the extent that it shall be called to the attention of the Beer Board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the Beer Board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.

8-313. When Beer Board may issue. The Beer Board shall issue no permit until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable public notice.

8-314. To be posted. Any permit issued under this article shall be posted in a conspicuous place on the premises of the permittee.

8-315. Not transferable. No permit issued by the Beer Board under the provisions of this article shall be transferable from one person to another.

8-316. Grounds for revocation or suspension. (1) The Beer Board shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this article or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

(a) Operates a disorderly place; or

(b) Allows gambling on the premises; or

(c) Allows fighting or boisterous or disorderly conduct on the premises; or

(d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or

(e) Allows minors to congregate about the premises after normal hours of business; or

(f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or

(g) Has made a false statement of a material fact in any application or notice to the board; or

(h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or

(i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or

(j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or

(k) Allows violation of any provision of this article to occur on the licensed premises; or

(l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or

(m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or

(n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or

(o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with Tennessee Code Annotated, § 57-3-704.

(2) The Beer Board may also, in its discretion, revoke a permit for due cause not specified herein.

Section 4: This Ordinance shall take effect fifteen (15) days after its passage, the public welfare requiring it.

Approved on First Reading_____

Approved on Second Reading_____

_____ Mayor

_____ City Recorder

Approved as to form:

_____
City Attorney