

**AN ORDINANCE OF  
THE CITY OF EAST ELLIJAY  
PURSUANT TO ITS' CHARTER AND OTHER LAWS**

PASSED: 06/18/25

**ORDINANCE NO. 2025-02**

**AN ORDINANCE BY THE CITY COUNCIL FOR THE CITY OF EAST ELLIJAY TO AMEND ITS ALCOHOL BEVERAGES ORDINANCES TO PROVIDE FOR UPDATED REQUIREMENTS; AND FOR OTHER PURPOSES.**

WHEREAS, the City has the authority under the City Charter and the general laws of the State of Georgia to enact certain changes to its alcohol ordinances; and

WHEREAS, the City finds changes are needed that shall be is in the best interests of the public health, safety, welfare and morals;

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF EAST ELLIJAY AND ADOPTED;

**SECTION I**

The following provisions of Ordinance 12-03 (as recast/amended and attached hereto), or other applicable ordinances, are hereby amended, recast, repealed and/or adopted as follows: (NOTE: The sections listed below correspond to the numbered Articles and Paragraphs in the attached Ordinance).

## **ARTICLE I-GENERAL RULES AND REGULATIONS**

### **Section 1.3 Qualifications for Issuance of a License**

Any person who desires to obtain a license for the retail sale of alcoholic beverages by the drink or by the package must meet the minimum qualifications set forth in this section.

- (A) No license shall be issued to an applicant who is under 21 years of age.
- (B) Residency of the applicant as a condition of approval may not be required if the applicant designates a responsible supervisor or manager for the licensed location and is regularly on the premises and agrees to accept service of any citations or notices.
- (C) A license for the sale of alcoholic beverages may only be issued to an applicant of good moral character with mental and physical capacity to conduct such a business. The applicant shall not have been denied or had revoked for cause within five years of the date of his/her application any license issued to him/her by the City of East Ellijay and/or any other city, county and/or state to sell alcoholic beverages of any kind which shall constitute grounds for rejection of the application.

(D) The applicant shall be the owner for which the license is held or the holder of the lease thereon for the period covered by the license. If the premises are leased, a copy of the lease will be furnished with the application or, if the lease is contingent on the license being issued, a sworn statement from the owner or landlord providing a copy of the proposed lease and stating said lease shall be executed upon approval of the license.

(E) The licensee shall be active in the operation of the premises sufficiently to assure compliance with the provisions of this Ordinance.

(F) No license for the retail sale of distilled spirits shall be issued to a person if that person, or a member of his immediate family, has any interest in more than two retail dealer licenses for the sale of distilled spirits, regardless of the degree of such interest. No person shall be issued a license for the retail sale of distilled spirits if that person, or a member of his immediate family, owns any interest in a liquor distillery, or wholesale distributors.

(G) No license to engage in the retail sale of alcoholic beverages by the drink or in the original package shall be granted or issued unless the location within the City of East Ellijay is, at the time such application is made, located within the designated zoning district as prescribed by the City Zoning Ordinances.

(H) No license shall be issued for the sale of distilled spirits by the package for any outlet within 300 feet of any church building or within 600 feet of any school building that holds an active certificate of occupancy at the time of the license application. No license for the sale of wine or malt beverages shall be issued where the outlet for such sale is located within 300 feet of any church building or within 600 feet of any school building. For the purpose of this Ordinance, the term school as referred to herein, shall include only such state, county, city, church, or other schools as teach the subjects commonly taught in the common schools of this State and expressly exclude buildings used by school officials for administrative purposes in which school children are not regularly taught. Unless otherwise provided by law, all measurements to determine distance required under this Ordinance for the issuance of an alcoholic beverage license, shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) From the front door of the structure from which the alcoholic beverages sold or offered for sale;
- (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;

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

(4) To the front door of the main entrance of the applicable church building or school building. If a church or school has more than one building on its parcel, then distance shall be measured to the front door of the main entrance of the church's sanctuary or the front door of the school's building at which visitors are required to check-in.

Unless waived by the Mayor and City Council; all applications for a license shall have attached thereto a current certificate from a registered surveyor of this State showing a scaled drawing of the premises, the location on premises where the applicant desires to operate an alcoholic beverage outlet and the distance in linear feet by the most direct travel route as prescribed above to the nearest church or school building.

(I) No license shall be issued to any person who fails to comply with all rules and regulations regarding the sale of alcoholic beverages contained in this Ordinance.

(J) No license shall be issued to any person who owes any delinquent taxes, and/or assessments to the City of East Ellijay.

(K) The total number of licenses issued for the package sale of distilled spirits within the City of East Ellijay shall not exceed two outlets.

(L) If an application is denied due to a violation of the distance requirement set forth in State law or this Ordinance, an applicant may appeal the denial to the Mayor and City Council for a waiver of the distance requirement and demonstrate that a waiver would not be detrimental to the public health, safety, welfare and morals. An applicant who appeals a distance requirement denial must provide written notice of the appeal to the school or church and provide proof of such notice to the City prior to the appeal hearing starting. Failure to provide proof of notice shall constitute ground for an immediate denial.

(M) An application or an appeal will include consideration of the following factors which will support a denial: (1) That the applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made; (2) That the applicant has had any license issued under the police powers of any county, state, municipality or other governmental entity previously suspended or revoked; (3) That the applicant has violated any law, regulation or ordinance relating to such business within a five-year period immediately preceding the date of application; (4) That any applicant for a retail license under this chapter is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to civil law. This subsection shall

not restrict a farm winery from selling at retail and wholesale; (5) That any applicant or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent is delinquent in payment of any property tax or other tax or license fee payable to the county or to the state; (6) The applicant has demonstrated lack of knowledge of the City's ordinances and federal and state law regulating the business. Prima facie evidence of lack of knowledge, as described in this subsection, would include but is not limited to violations of such law or regulation, regulating the business; (7) The applicant fails to answer questions on the alcoholic beverage application accurately or failure of the applicant to provide accurate information to the City regarding laws and regulations governing the business; (8) That the alcoholic beverage license is sought for use at a sexually oriented business. Notwithstanding the circumstances set out above, the Mayor and City Council may, after a public hearing and notice, waive such circumstances and grant a license. No waiver may be granted for the circumstance set out in subsection (8).

#### **Section 1.4 The Application Process**

(A) Any person desiring to sell alcoholic beverages by the drink or by the package shall make written application to the City for the appropriate license on forms prescribed by the Mayor and City Council and filed with the Clerk. All

applications shall be fully completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of an entity, then an individual must execute the application on behalf of the entity and affirmatively state under oath that the individual is authorized to bind the entity. All applications shall be accompanied by the following:

( 1 ) The application shall have attached a current certificate from a registered surveyor of this State, showing a scaled drawing of the premises, the location on the premises where the applicant desires to operate an alcoholic beverage outlet, and the distance in linear feet by the most direct route of travel as determined herein to the nearest church or school building.

(2) If the outlet is to be located on a leased premises, then a copy of the lease must be attached.

(3) If the applicant is an entity a current copy of the articles of incorporation, limited liability operating agreement, partnership agreement or similar document, shall accompany the application.

(4) As a prerequisite to the issuance of any license, the applicant shall furnish a complete set of fingerprints for all persons required to sign the application to be forwarded to the Georgia Bureau of Investigation and to the Federal Bureau of



Investigation, as specified under Georgia law. Each person required to sign the application for an original license and/or renewal license, authorizes the City of East Ellijay or its designated representatives to secure from any state, county, municipal or federal court any police department and/or law enforcement agency his, her, or its criminal history and civil history and further authorizes the City, its officers and employees to use such information in determining whether or not an alcoholic beverage license will be issued to the applicant. Further, the applicant authorizes the City of East Ellijay, its officers and employees to use such information in a public hearing if necessary, to determine whether or not the applicant's license should be issued, denied, voided, canceled and/or revoked. Each applicant waives any right or rights he, she or it may have under State or Federal law, statute and/or court ruling to preclude the City from securing such criminal and/or civil history from any source and waives any right he, she or it may have to preclude the City from using such information publicly in determining whether the license will be issued to such applicant.

(5) The application shall be accompanied by a certified check for the full amount of the non-refundable current license fee.

( B) For evaluation of the applicant's qualifications by the City Council, all applications for licenses shall contain a full and complete statement of all material

facts which tend to show whether the applicant or applicants, or any member or members of their immediate families, own a financial interest in any other alcoholic beverage outlets, or any interest in a wholesale alcoholic beverage entity, and/or distillery or brewery, and what interest they and each of them will have in the alcoholic beverage outlet being requested from the City of East Ellijay.

(C) The Mayor and City Council may require any additional information and records they deem necessary. Failure to furnish such data shall automatically serve to dismiss the application. Any misstatement or concealment of fact in the application shall be grounds for denying a license or revoking as issued license, and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.

(D) Each applicant shall certify that applicant has read this Ordinance and if the license is granted, each licensee shall maintain a copy of this Ordinance on the premises and shall require each of the licensee's employees to be familiar with this Ordinance.

(E) Once an application, the accompanying documents, and the required investigative and license fees are filed with the Clerk, a copy of the application and all accompanying documents shall be referred to the Police Chief/Public Safety Director for the City of East Ellijay for a thorough investigation. The Police

Chief/Public Safety Director or his designee shall, verbally or in writing, render a recommendation regarding the qualifications of the applicant and the location for an alcohol license to the Mayor. If Mayor concurs that all initial requirements are met, the Mayor shall schedule the application for a review hearing and inform the applicant in writing of the date sufficient to allow the applicant to publish notice, if applicable. If the application is for sale of alcoholic beverages by the package or by the drink, the applicant must at least 30 days prior to said meeting, notice in the in the official county organ of Gilmer County, Georgia of the applicant's intent to secure a license for the sale of alcoholic beverages by the package or by the drink; the exact location of the place of business for which a license is sought; and the names and addresses of each owner of the business. If after the initial review, the Mayor and Police Chief/Public Safety Director finds that the applicant fails to meet all of the qualifications outlined by this Ordinance, then the Mayor shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of the right to appeal; said appeal to be in accordance with this article.

(F) Any application which the Mayor and City Council determines to satisfy all the qualifications outlined in this Ordinance shall be scheduled for review at the next available meeting of the City Council. At that meeting, the applicant and any

person opposed to said application has the right to present to the City Council any information which the City Council determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the City Council shall look to the public interest and welfare and shall have the sole discretion to grant or deny the application based on the information presented. A decision by the Mayor and City Council shall be hand delivered or mailed/ delivered to the applicant at the address listed on the application. In the event the application is denied, such written notification shall set forth in reasonable detail the reason for the denial and shall notify the applicant of his right to appeal; said appeal to be in accordance with this article.

(G) Without written approval from the City, in all instances in which an application is denied under the provisions of this Ordinance, the applicant may not reapply for the same type of license for at least one year from the final date of such denial.

(H) Upon the issuance of a license, the licensee must designate a responsible officer, member or supervisory employee/supervisor who is regularly on the licensed premises on a weekly basis and is authorized to accept service of violations and notices. It is the duty of the licensee to ensure that the City has the current name, telephone number, company email address and other contact

information of the responsible agent upon whom any process, notice or demand required or permitted by law, or under this Ordinance to be served upon the licensee may be served. The licensee shall file the name of such agent, along with the written consent of such agent, with the Mayor and City Council in such form as they may prescribe. If the City attempts to contact the responsible agent and receives no response for a period of twenty-four hours, then the licensee agrees that any notice or violation may be served on any employee on the premises and the licensee consents to such service and admits such service shall constitute valid service on the licensee.

(I) Upon approval by the City Council of the application for a license, the City shall issue a license in accordance with the approved application. Any applicant granted a license after January 31, shall pay a pro-rated licensee fee for the remaining number of full months in the calendar year, computed from the time of issuance of said license.

### **Section 1.5 Renewal of License.**

(A) All licenses granted hereunder shall expire on December 31st of each year. Licensees who desire to renew their license shall file a renewal application accompanied by the requisite license fee with the City Clerk upon forms prescribed by the Mayor and City Council on or before December 15th of each year without

penalty. Renewal applications filed after December 15th shall be subject to a penalty of ten percent of the license fee.

(B) Each application for renewal will show the date of the original application and state there have been no changes in any of the information and data contained in and/or furnished with the original application and that the applicant or applicants for renewal are familiar with applicable Georgia laws and regulations and with the rules and Ordinances of the City. A false statement made on the renewal application will void the application and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.

(C) Each application for renewal of a license shall be approved or denied within thirty days from submission of the renewal application. If a renewal application is not denied within the thirty-day period, the application shall be automatically deemed approved and the new license shall issue.

#### **Section 1.6 Transfer of License.**

No license for the sale of alcoholic beverages shall be transferable, except upon the death of a licensee, when such license may be transferred to the administrator, executor, or lawful adult heir or heirs of such deceased person. If such legal representatives of such deceased licensee cannot meet all the

requirements of this Ordinance when the time arrives to renew the license, it shall not be renewed.

**Section 1.7 Suspension, Revocation, or Forfeiture of License.**

(A) Every license issued by the City for the sale of alcoholic beverages shall expire and be of no further force or effect in case of bankruptcy, receivership, levy of legal process or failure to promptly account for and pay the excise tax levied on the sale of alcoholic beverages.

(B) A license may be suspended or revoked by the Mayor and City Council upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this Ordinance.

(C) Whenever the State shall revoke any permit or license to sell alcoholic beverages, the City license shall thereupon be automatically revoked, without any action by the City. Any licensed outlet that is found to be in violation of the prohibited conduct provided for in this Ordinance, shall be subject to license revocation in addition to all other penalties allowed.

(D) After a hearing, the Mayor and City Council may suspend or revoke the license of any outlet which does not meet the licensing qualifications set forth in this Ordinance at any time such knowledge becomes known to them.

(I) An act or omission of a licensee, or employee of the licensee or licensing outlet willingly or knowingly performed, which constitutes a violation of Federal or State law, or of any provision in this Ordinance, will subject the licensee to suspension or revocation of the license in accordance with the provisions of this Ordinance. Provided, however, in the case of the employee, the Mayor and City Council will determine whether the acts of the employee were known to, or under reasonable circumstances should have been known to the licensee, or were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(J) Any license shall automatically expire on December 31st of each year unless renewed by the Mayor and City Council. If an applicant has a pending application for renewal, the applicant may continue to operate until such time as the renewal is approved or denied.

**Section 1.10 Regulations as to Employees.**

(A) Any person employed by a licensee under this Ordinance shall be of good moral character and at least 18 years of age. Provided, however, that this



does not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(B) The licensee is responsible for the conduct or actions of the employees while in the licensee's employment. It shall be the duty of the licensee hereunder to maintain a copy of this Ordinance at the outlet and to instruct each and every employee engaged in the sale and/or handling of alcoholic beverages or the terms hereof. Any violation by an employee shall be deemed to be a violation of the licensee and grounds for revocation.

#### **Section 1.11 Restrictions and Prohibitions.**

(A) It shall be unlawful for any person to manufacture, sell, or possess for the purpose of sale, any alcoholic beverage when such person does not have a license from the City to sell or possess or manufacture for sale such beverage.

(B) No licensee shall sell or permit to be sold alcoholic beverages to any person under the legal drinking age as prescribed by Georgia law.

(C) No licensee shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing alcoholic beverages to any person who is in a state of noticeable intoxication.

(D) Alcoholic beverages may be sold on Sundays as follows:

Beer & Wine in Retail Outlets - Package Sales - 24 hours per day, Monday through Sunday. Alcoholic Beverages by the drink - May be sold Monday through Saturday 6:00 a.m. until 2:00 a.m. and 12:01 p.m. until 12:00 a.m. on Sunday (noon until midnight).

(E) The sale by wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages shall be lawful during the polling hours of any election; provided however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(F) No licensee permitted to sell distilled spirits by the package shall permit any person under the legal drinking age as prescribed by Georgia law to be in, frequent, or loiter about the licensed premises unless this person is accompanied by a parent, legal guardian, or custodian, provided, however that this section shall not apply to persons who are employees under the terms of this Ordinance.

(G) All licensees shall require and properly check identification to insure an underage person is not sold, served, or has in his possession alcoholic beverages while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, or the person's photograph, and giving such person's date of birth, and including, but without being limited to, a passport, military ID card, driver's license, or state

department public safety ID card. Proper identification shall not include a birth certificate.

(H) No licensee shall permit on the licensed premises any person performing acts of, or acts which constitute or simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law of the touching, caressing, or fondling of the breast, buttocks, anus or genitals or the displacing of any portion of the areola of the breast, or any portion of the pubic hair, cleft of the buttocks, anus, vulva, or genitals the showing, display or exhibit of any film, still picture, or electronic reproduction or any other visual reproduction or image of any act or conduct described herein. No licensee shall permit on the licensed premises any person using artificial devices or inanimate objects to depict any of the prohibited activities described above. No licensee shall permit any person to remain in or about the licensed premises who exposes to public view any portion of the areola of the breast, or any portion of the pubic hair, cleft of the buttocks, anus, vulva, or genitals. There shall be no nude or semi-nude or erotic dancing, or the performance of obscene acts or acts which simulate ( 1 ) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or ( 2 ) The touching, caressing or fondling of the breast, buttocks, anus or genitals; or ( 3 ) The

displaying of the pubic hair, anus, vulva or genitals; in any outlet that is licensed. The holding, promotion or allowance of any contest, promotion, special night or any other sexual activity is prohibited in any licensed outlet.

(I) No licensee authorized to sell alcoholic beverages by the package shall permit the consumption of alcoholic beverages on the premises.

(J) Except as provided by O.C.G.A. §§ 3-3-10 and 3-3-11, no licensee authorized to sell alcoholic beverages by the drink shall permit any person to remove from the licensed premises any alcoholic beverage sold or dispensed for consumption on the premises.

(K) The consumption and/or alcoholic beverages shall be allowed in open areas and patios, provided that that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such outlet, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress.

(L) The licensee shall keep the premises clean, and in proper sanitary condition, and in full compliance with provisions and regulations governing the conditions of premises used for the storage and sale of food for human consumption.

**Section 1.12   Advertising.**

(A) No licensee shall have any advertisement of any kind advertising alcoholic beverages for sale or advertising the brand names or prices of alcoholic beverages except for advertisements which are on the actual licensed premises and comply with the City's sign ordinance.

(B) A licensee authorized to sell distilled spirits by the package shall affix to each bottle or container of distilled spirits, or to the edge of the shelf whereon such bottles or containers are located directly beneath such bottles or containers, a tag showing the prices of individual bottles or containers. A licensee authorized to sell alcoholic beverages for consumption on the premises shall display inside the place of business their current prices.

(C) The exterior of each building where alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times when the premises are opened for business.

(D) The licensee shall post in a prominent location on the licensed premises, in a manner whereby it may be easily viewed by patrons, an approved sign setting forth or summarizing the laws of the City and the State of Georgia in regard to the

sale of alcoholic beverages to underage, intoxicated, or pregnant persons. Each such sign shall be of a size and configuration approved by the Department of Revenue of the State of Georgia.

**Section 4.1 Locations Where Prohibited.**

No alcoholic beverages may be sold by the drink for consumption on the premises unless the location meets the requirements of this Ordinance and complies with State law. Unless located in a hotel, any establishment that sells alcoholic beverages for on-premises consumption must have (1) sixty percent (60%) or more of its total annual gross sales of food and alcoholic beverages from the sale of prepared meals or food; (2) a full-service kitchen [with permanent stove/oven and refrigerator] approved by the Health Department; and (3) offer food for sale every hour the establishment is open for business. Any holder of or applicant for an alcoholic beverage license must make available for audit any and all records concerning such business upon request of the Police Chief/Public Safety Director or his representative. The books, records, inventory, stock and facilities of any alcoholic beverage license holder or applicant for same shall be open for inspection at any time by the City of East Ellijay.

**Section 4.7 Patios and Open Areas.**

The consumption of alcoholic beverages shall be allowed in open area and patios that are included in the licensee's leased premises, provided that the licensee is in compliance with all other appropriate regulations, as to the safe and orderly operation of such establishment, including, but not limited to regulations pertaining to maximum capacity, ingress, and egress and noise. No amplified noise, singing or music shall be allowed in any open areas or patios after the hours of 9 p.m. Monday-Thursday and 10 p.m. Friday-Sunday.

**Section 4.8** of the Ordinance is hereby repealed in its entirety and any promotions shall be governed by State law.

**SECTION II**  
**SEVERABILITY AND REPEAL**

If any portion of this Ordinance is found to be unconstitutional or in violation of the law by a Court having jurisdiction, it is the intent of the Mayor and Council that the provisions which are not found to be unconstitutional or in violation of the law shall remain in full force and effect. Any other provisions or ordinances which conflict with this Ordinance are hereby expressly repealed.

**SECTION III.**  
**EFFECTIVE DATE**

The effective date of this Ordinance shall be immediately upon its passage by the City Council and return of this Ordinance with the approval of the Mayor as provided for in Section 2.31 of the Charter or ten days after adoption, whichever is sooner.

SO ORDAINED, this 18<sup>th</sup> day of June, 2025.

**CITY OF EAST ELLIJAY**

Attest as to this Ordinance having passed by majority vote:

Petina Pritchett

City Clerk

APPROVED:

This 18<sup>th</sup> day of June, 2025

Don Callihan

Mayor Don Callihan

VETOED:

This \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
Mayor Don Callihan

Attest as to this Ordinance having become law due having not been approved or vetoed by noon on the 10<sup>th</sup> Calendar day after said Ordinance's adoption:

This \_\_\_\_\_ day of \_\_\_\_\_, 2025.



\_\_\_\_\_  
City Clerk

Attest as to this Ordinance having been vetoed and presented to the City Council for consideration and said vetoed was \_\_\_\_\_ or was not \_\_\_\_\_ overridden by three councilmember votes.

This \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
City Clerk