

**AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING
RULES AND REGULATIONS FOR LICENSING THE SALE OF DISTILLED
SPIRITS, WINE AND MALT BEVERAGES WITHIN THE CITY OF EAST ELLIJAY,
GEORGIA**

WHEREAS, it is the desire of the governing authority of the City of East Ellijay to promote the general health, safety and welfare of the of the citizens of the City of East Ellijay and to provide restrictions on the sale of distilled spirits, wine and malt beverage products and

NOW THEREFORE, BE IT ORDAINED by the East Ellijay City Council pursuant to the authority granted by the State of Georgia in Article 9, Section 2, Paragraph 1, adopts a distilled spirit, wine and malt beverage ordinance as follows :

ARTICLE I - GENERAL RULES AND REGULATIONS

Section 1.1 License of the Sale of Alcoholic Beverages.

- (A) Alcoholic beverages may be sold in the City of East Ellijay only after the issuance of a license for such sale by the City and only in the manner permitted by said license. Alcoholic beverages may be sold in the City only by a licensee who complies with the rules and regulations of their Ordinance, and with the licensing, regulatory and revenue requirements of the State of Georgia. Violations of this section may result in a fine and/or imprisonment.
- (B) All licenses granted by the City for the sale of alcoholic beverages are a mere grant or privilege subject to all terms and conditions imposed by City Ordinance and State law and subject to being revoked by the City of East Ellijay.
- (C) Each licensee of the City shall display the license prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.

Section 1.2 Definitions

As used in this Ordinance, the term:

- (A) Alcoholic Beverage(s) means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine as defined in this section.
- (B) Applicant means any one or more persons applying for a City license or renewal thereof.
- (C) Application means those forms required by the City to be completed by person(s) applying for an original license or a renewal license under this Ordinance.
- (D) Beer and Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion of decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and

including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

- (E) Church means any place of permanent public religious worship and shall exist if a building permit therefore has been obtained and construction of the Church building has commenced or substantial materials, or supplies for its construction, have been moved to the site.
- (F) City shall mean the City of East Ellijay, Georgia.
- (G) City Council shall mean the City Council of the City of East Ellijay, Georgia.
- (H) Distilled Spirits means any alcoholic beverage obtained by distillation or containing more than twenty-one percent alcohol by volume, including but not limited to, all fortified wines.
- (I) Fortified Wine means any alcoholic beverage containing more than twenty-one percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation, or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.
- (J) Motel means every building or structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, in which 500 or less rooms are used for the sleeping accommodations of such guests.
- (K) Immediate Family shall include all persons related to each other within the first degree of consanguinity and affinity as computed according to the canon law.
- (L) License shall mean the formal approval granted or issued by the City to licensee for the sale of alcoholic beverage within the City of East Ellijay.
- (M) Licensee means the individual or business entity to whom the license is issued.
- (N) Mayor means the Mayor of the City of East Ellijay, Georgia.
- (O) Outlet means the definite structure, whether a room, shop, store, building, restaurant, or club, in which activities permitted by this Ordinance are conducted.
- (P) Package means a bottle, can keg, barrel, or other original consumer container.
- (Q) Person means any individual, firm, partnership, cooperative, non-profit 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 a public, private or quasi-public.
- (R) Premises shall mean not only the structure, wherein an outlet for sale of alcoholic beverages is operated under a City license, but shall include all of the lot where on said outlet is located, except where such outlet in a hotel or shopping center.

- (S) Retail Consumption Dealer means any person who sells distilled spirits for consumption on the premises at retail, only to consumers and not for resale.
- (T) Retailer or Retail Dealer means, except for distilled spirits, any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. With respect to distilled spirits, Retailer or Retail Dealer means, any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale.
- (U) Wholesaler or Wholesale Dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers or to retail consumption dealers.
- (V) Wine means any alcoholic beverage containing not more than twenty-one percent alcohol by volume, made from fruits, berries, or grapes, either by fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverage, vermouths, special natural wines, rectified wines, and like products. The term wine does not include cooking wine mixed with salt or other ingredients to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.
- (W) Zoning shall mean the zoning classifications as approved by the City of East Ellijay, Georgia.

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. If the application for license involves a partnership then at least one partner having no less than a ten percent interest in the partnership must be qualified to obtain a license and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation then at least one stockholder owning no less than a 10% interest in the outstanding and issued stock of the corporation must meet all requirements of an individual applicant.

- (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 Gilmer County resident who shall be held responsible for any matter relating to the license.
- (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 convicted within ten years of the date of his/her application of any felony in any county, states, federal or local court and/or been convicted of any violation of the laws of this State or the federal government relating to the sale of alcoholic beverages, gambling, or taxes, and/or any misdemeanor involving moral turpitude. The

Mayor and City Council may, at its discretion, waive conviction of a misdemeanor if they determine that such conviction has no bearing on whether or not the applicant can or cannot operate the outlet in accordance with municipal, state and federal law. 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.

- (D) The applicant shall be the owner of the premises 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. If the lease provides that the payment of rent is based on a percentage of the gross and/or net sales of alcoholic beverages, ***then the owner of said leased premises is hereby deemed to have a financial interest in said outlet and information required for other applicants must be provided for said property owner.***
- (E) The licensee shall be active in the operation of the outlet and personally present on the premises sufficiently to assure compliance with the provisions of this Ordinance. If the owner of the outlet is a corporation, the corporation and its principal officers shall also be responsible for the operation of the outlet.
- (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.
- (F) 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.
- (G) No license shall be issued for the sale of distilled spirits by the package for any outlet within 300 feet of any Church building, within 600 feet of any school building or within one mile from another outlet licensed to sale distilled spirits. 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 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 solely 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 land line of the school property, educational property, college campus property, church property.

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 property line, school property line, educational property line, or college campus property line.

- (H) 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.
- (I) No license shall be issued to any person who owes any delinquent taxes, and/or assessments to the City of East Ellijay.
- (J) The total number of licenses issued for the package sale of distilled spirits within the City of East Ellijay shall not exceed two outlets. The minimum square footage for a package store shall be 8,000 square feet of display space.
- (K) The minimum inventory required for a package store licensed to do business within the City of East Ellijay shall be \$300,000.00, calculated by using the suggested retail price of each item.

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 Mayor. 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 a partnership, then all partners shall sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a corporation, then all principal officers of the corporation and all stockholders holding more than ten percent of any class of corporate stock must sign the application in the presence of a notary public or other officer authorized to administer oaths. All applications shall be accompanied by the following:
 - (1) If the application is for a license authorizing the retail sale of distilled spirits by the package then a certificate of residency is required for all persons required to sign the application, unless the application is on behalf of a partnership or corporation, in which case a certificate of residency is required of at least one partner owning no less than a ten percent interest in the partnership or at least one shareholder owning no less than a ten percent interest in the outstanding and issued stock of the corporation.

- (2) Unless waived by the Mayor and City Council, 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.
- (3) If the outlet is to be located on a leased premises, then a copy of the lease must be attached.
- (4) If the applicant is a partnership, a copy of the partnership agreement, including amendments, shall accompany the application.
- (5) If the applicant is a corporation, a copy of the Articles of Incorporation and By-Laws, including amendments shall accompany the application.
- (6) 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.
- (7) The application shall be accompanied by a certified check for the full amount of the license fee together with a separate check for an investigative fee as determined by the Police Chief, but not less than \$ 150.00, unless waived by the Mayor and City Council. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded but the investigative fee shall be retained by the City.
- (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 Mayor, a copy of the application and all accompanying documents shall be referred to the Chief of Police for the City of East Ellijay for a thorough investigation. The Chief of Police or his designee shall make a written report regarding the qualifications of the applicants to the Mayor and City Council. If the report of the Chief of Police is favorable and the Mayor and City Council finds that the applicant meets all qualifications, ***the Mayor and City Council shall schedule the application for a hearing at the next City Council meeting and shall so inform the applicant of this fact before such meeting and if the application is for sale of alcoholic beverages by the package or by the drink shall instruct the applicant to publish prior to said meeting, notice in the form herein provided 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; and if the applicant is a corporation, the names and titles of all corporate officers.*** If the report of the Chief of Police is unfavorable, or if the Mayor and City Council 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 his application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his right to appeal; said appeal to be in accordance with Section 1.8 of this article.
- (F) Any application which the Mayor and City Council determines to satisfy all the qualifications outlined in this Ordinance, including character requirements as contained in the report of the East Ellijay Chief of Police, shall be scheduled for review at the next 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 Council meeting, and notice of that decision shall be mailed to the applicant. 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 Section 1.8 of this article.
- (G) 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 have and continuously maintain in Gilmer County, a registered 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. This person

must be an individual and must be a resident of Gilmer County, Georgia. 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.

- (I) Upon approval by the City Council of the application for a license, the Mayor shall issue a license in accordance with the approved application. When the applicant is applying for himself and a corporate partnership or club, the license, if issued, shall be issued in the name of the approved applicant and the corporation or club. If the applicant is a partnership, the license will be issued in the name of one or more partners in the partnership. If the applicant is an individual, then the license shall be granted for the full calendar year or for the number of months remaining in the calendar year. 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. The renewal application must be signed and sworn to by all applicants in the presence of a notary public or other officer authorized to administer oaths. In the event it is discovered by the City that changes have occurred, which are in any way different from those facts shown in the original application and the documents furnished with the original application, the renewal shall be void. The applicant may be required to file a new application if changes have occurred in the information and data furnished with the original application. The applicant will furnish all information required by the renewal application. 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 in accordance with the same procedure applicable to applications for new license prescribed in paragraphs (E) and (F) of Section 1.4 of this Ordinance.

Section 1.6 Transfer of License.

- (A) 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.

- (B) Except as provided herein, any change in the ownership of any entity owning a licensed outlet, shall cancel and revoke any license issued hereunder automatically, without the necessity of any hearing. A new license application must be applied for whenever a partnership holding a license admits a new partner to the partnership, not a partner at the time of the original license application. A new license must be applied for whenever a corporation owning a license admits stockholders holding ten percent or more of any class of stock, who were not stockholders at the time of the application for the existing license. Whenever a partnership or corporation holding a license loses said license as a result of the provisions of this section, upon filing an application for a new license said partnership or corporation may continue to operate under the terms of the prior license until such time as the new application is approved or denied by the City Council; provided, however, no such continued operation shall be authorized until such time as a new application for license is made and the required fees paid to the Mayor.

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) Except as provided for transfers under Section 1.6 above, any change in the ownership of any entity owning a licensed outlet shall cancel and revoke any license issued hereunder automatically without the necessity of any hearing.
- (C) All licensees must, within six months after the approval of said license, open for business the outlet referred to in the application for license, and begin the sale of the product or products authorized by the said license. Failure to open the outlet and begin the sales referred to above within six months period, shall serve as automatic forfeiture and cancellation of the license and no refund of the license fee shall be made to the license holder.
- (D) Any licensee who shall for a period of three consecutive months cease to operate the business and sale of the product or products authorized in the said license, shall after said three months period automatically forfeit the license, which license shall be canceled without the necessity of any further action and without refund to the license holder.
- (E) 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.
- (F) 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 immediate license revocation in addition to all other penalties allowed.

- (G) Any licensed outlet for the sale of distilled spirits by the drink shall be subject to immediate license revocation if said outlet fails to meet the requirements regarding the sale of food on the premises.
- (H) 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 his license in accordance with the provisions of this Ordinance when the Mayor and City Council determines to their own satisfaction that the act or omission did occur regardless of whether any criminal prosecution or conviction ensues. Provided, however, in the case of an employee, the Mayor and City Council will determine that 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.

Section 1.8 Appeal of Denial, Revocation or Suspension.

- (A) The City Council shall have the duty of hearing appeals from decisions denying, revoking, or suspending a license.
- (B) No license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.
- (C) The Mayor and City Council shall provide written notice to the applicant or licensee of a decision to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal such action and shall notify the applicant or licensee of the right to appeal under the provision of this Ordinance. Any applicant or licensee, who is aggrieved or adversely affected by a decision of the City may have a review thereof by appeal to the Mayor and City Council. Such appeal shall be by written petition filed in the office of the Mayor within 15 days after the notice of the decision of the City is mailed to the applicant or licensee.
- (D) A hearing shall be conducted on each appeal at the next regularly scheduled City Council meeting unless it is continued to such date as is agreed to by the appellant and the Mayor and City Council. The appellant at such hearing shall have the right to be represented by an attorney, present evidence and cross-examine opposing witnesses at the expense of the appellant.

- (E) The findings of the City Council shall be forwarded to the Mayor after the conclusion of the hearing and it shall be the duty of the Mayor to notify the appellant of the actions of the City Council.
- (F) The findings of the City Council shall be final unless appealed within thirty (30) days of the said findings to the Superior Court of Gilmer County, Georgia.
- (G) For the purpose of this Ordinance, notice shall be deemed delivered when personally served or when served by mail within three days after the date of deposit in the United States mail.

Section 1.9 Enforcement of this Ordinance.

- (A) Sworn officers of the City Police Department and the Mayor and City Council shall have the authority to inspect the outlet and premises licensed under the alcoholic beverage ordinances of the City during the hours when the outlet is 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 City officer to conduct inspections authorized by other provisions of law.
- (B) In order to insure that the licensed premises are kept clean, and are in full compliance with all Ordinances and regulations of the City of East Ellijay, Gilmer County, and the State of Georgia, the following representatives are authorized to inspect the licensed premises:
 - (1) The Gilmer County Fire Department shall have the authority to inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all City of East Ellijay, Gilmer County, and State of Georgia fire regulations and report any violations to the Mayor and City Council.
 - (2) The City of East Ellijay has the right to have an inspector inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all technical codes of East Ellijay and report any violations to the Mayor and City Council.
- (C) Every licensee shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee. The records shall be kept for a period of three years from the date of purchase and sale and should at all times be open to audit and/or inspection by the Mayor and City Council or any designated City employee or any outside agent or agents for the City upon approval of such outside agent or agents by the Mayor. Further, all licensees for the sale of distilled spirits by the drink shall keep and preserve records of all food and non-alcoholic beverages purchased and sold by said licensees. Such records shall be kept for three years from the date of purchase and sale and shall be at all times open for audit and inspection by the Mayor and City Council and/or any designated City employee and/or any outside agent or agents of the City upon approval of said outside agent or agents by the City Manager. In the event an audit is called for by the Mayor and City Council, they shall notify the licensee of the date, time and place of the audit.

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) No licensee and/or manager may be employed by anyone holding a license hereunder, unless such person has been fingerprinted by the police department of the City of East Ellijay and has been issued a permit by the Chief of Police or his designee indicating the person is eligible for such employment. Provided, however, employees whose sole duty is that of cashier or stockman and/or bag boy who work in grocery stores, convenience stores, drug stores and similar establishments will not be required to receive a permit as such duties do not constitute handling of alcoholic beverages under the provisions of this section.
- (C) No permit shall be issued until such time as the licensee and/or manager has completed the forms furnished by the Chief of Police and provided all information considered necessary by the Chief of Police to make a decision in regard to such person's request for permission to work in an alcoholic beverage outlet. Such person shall make himself available for photographing, fingerprinting and such other investigating as may be required by the East Ellijay Police Department. Such person shall pay a fee of \$ 30.00 to the City for each search and report. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the employee. The presence of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt.
- (D) The Chief of Police shall have a complete and exhaustive search made relative to any police record of the applicant. In the event there is no record of a violation of any provision of this Ordinance, the Chief of Police shall issue a permit to the applicant stating that the person is eligible for employment. If it is found that the applicant is not eligible for an employment permit, the Chief of Police shall notify the applicant and the employer that this person is not eligible for such employment.
- (E) Any permit issued by the Chief of Police to an applicant may be revoked if said permit is issued through administrative error or through an error in completing the background investigation. The Mayor and City Council may revoke a permit and demand its surrender when the applicant violates the provisions of this Ordinance, or becomes one who adversely affects the public health, safety and welfare. The Chief of Police may conduct a new search on any permitted person when the Chief of Police receives information in regard to such person which warrants a recheck. If the search evidence which warrants cancellation of the permit, the employer and person will be so notified. It shall be unlawful for an person or employer to refuse to surrender any permit revoked or canceled.
- (F) No licensee shall allow any person required to hold a permit to work on the licensed premises, unless the licensee has on file on the premises, the current valid permit of each such person.
- (G) In the event that any permit holder leaves the employment of a licensed outlet, the licensee shall immediately surrender the permit to the City Police Department.

- (H) All permits issued hereunder remain the property of this City and shall be produced for inspection upon demand by any sworn officer of the City Police Department.
- (I) The licensee is responsible for the conduct or actions of his employees while in his 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.

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) Except as otherwise authorized by law, 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 250feet 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) 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) No person employed or working in any capacity at any licensed outlet shall solicit or encourage patrons to purchase drinks to be consumed by or otherwise disposed of by any such person so employed or working.
- (L) No licensee shall add to the contents of a bottle or refill an empty bottle or in any other manner misrepresent the quantity, quality, or brand name of any alcoholic beverage. No retail licensee shall purchase alcoholic beverages from any person, firm, or corporation other than a wholesaler licensed under this Ordinance. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this Ordinance.
- (M) It shall be unlawful for any delivery to be made to and/or sales be made outside of the outlet. The consumption and/or alcoholic beverages shall be allowed in open areas and patios, provided that such open areas and patios are not visible from the exterior of the premises, and further provided 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.
- (N) 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.
- (O) No licensee shall permit on the premises any gambling, betting, games of chance, punch boards, vending machines, slot machines, pin ball machines, video machines, or similar machines which are in violation of the gambling provisions of the State of Georgia. No

games of any type are allowed in outlets licensed for the sale of distilled spirits and/or beer and wine by the package. Pin ball, electronic, or similar machines not in violation of the gambling laws of the State of Georgia are permitted in outlets authorized to sell alcoholic beverages by the drink, provided there are no more than three (3) such machines in any outlet where alcoholic beverages are served or consumed. Pool and/or billiards may not be played in any room where alcoholic beverages are sold or consumed.

- (P) When a change occurs in the relationship of any person, or in the status of any property or license, or any change in payment of rents, ownership of the lease, or building or land on which the outlet is located, any change in corporate ownership or management, any loss or damage to goods which results in a claim against an insurance policy and any change in the division of profits, any change in any division of net or gross sales for any purpose whatever, and any change in facts stated or claimed in any application or report herein required, a sworn statement of such change in all material facts relating thereto shall be filed with the Mayor and failure to do so within five days after such change shall, unless such time limit is extended for good cause, be reason for cancellation of a license granted pursuant to the provisions of this Ordinance.
- (Q) Any violation of the provisions contained under this section may result in the suspension or revocation of the license held by the licensee.

Section 1.12 Advertising.

- (A) No advertisement of any kind advertising alcoholic beverages for sale or advertising the brand names or prices of alcoholic beverages shall be permitted in the City of East Ellijay except for advertisements inside the licensed outlet which are not visible from the outside of the outlet. A licensee may advertise his business name or trade name on or off the premises, provided said business or trade name does not include any of the following words or combination thereof: "liquor", "whiskey", "beer", "wine", "alcohol", "alcoholic", "champagne", "booze", "distilled spirits", and "malt".
- (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 and said sign shall be made available to said licensee by the Mayor and City Council at a price to be established by the City.

ARTICLE II - MALT BEVERAGES AND WINE

Section 2.1 License Fees.

- (A) The license fee for a license to sell malt beverages and/or beer in the City of East Ellijay shall be paid to the City Clerk by a certified or cashier's check at the time of the filing of the original application or any renewal thereof. The following fee schedule shall apply:

(1)	Package sales	- malt beverages & wine	\$ 800.00
(2)	Package sales	- malt beverage only	400.00
(3)	Package sales	- wine only	400.00
(4)	Consumption on premises	- malt beverages & wine	800.00
(5)	Consumption on premises	- malt beverages only	400.00
(6)	Consumption on premises	- wine only	400.00

Section 2.2 Excise Tax on the Sale of Beer and Malt Beverages

The City of East Ellijay does hereby levy a tax on the sale of beer and malt beverages of five cents per twelve ounces and a proportionate tax at the same rate on all fractional parts of twelve ounces sold by wholesalers to retail package outlets in the City of East Ellijay. Further, there is also levied by the City an excise tax on tap or draught beer of six dollars per each container sold by wholesalers to retail package outlets in the City of East Ellijay and containing not more than fifteen and one-half gallons and a like rate for fractional parts where the draught beer is sold in or from barrel or bulk containers. The wholesaler shall remit these taxes to the City of East Ellijay on a monthly basis.

Section 2.3 Excise Tax on the Sale of Wine

There is hereby levied an excise tax of twenty-two cents per liter on wines sold by a wholesaler to retail package outlets in the City of East Ellijay and a proportionate tax at the same rate on all fractional parts of a liter. The wholesaler shall remit the tax of twenty-two cents per liter to the City of East Ellijay on a monthly basis.

Section 2.4 Type of Retail Outlet

Beer and wine may be sold at retail, by the package, only in:

- (A) Outlets duly licensed to sell beer and/or wine by the package; or
- (B) Outlets maintaining seventy-five of the floor space and storage area in a manner which is devoted principally to the retail sale of other foods and groceries.

Section 2.5 Hours of Sale.

Retail package outlets shall engage in the sale of beer and/or wine-original package only-on a 24 hour basis Monday through Sunday.. The sale of beer and wine is permitted on election days; except as provided under the distance exclusion in Section 1.11- Restrictions and Prohibitions, Paragraph (E) Page 13.

Section 2.6 No Consumption on Premises

No beverage licensed for sale under this Ordinance shall be sold at any time when the sale is prohibited by state law.

ARTICLE III - DISTILLED SPIRITS - ORIGINAL PACKAGE

Section 3.1 License Fees.

A license fee for the sale of distilled spirits in the original package shall be paid by certified or cashier's check to the Mayor by the applicant in the amount of \$ 2,500.00, payable at the time of the application for the license or renewal thereof.

Section 3.2 Excise Tax.

The City does hereby levy an excise tax of twenty-two cents per liter on all distilled spirits, except for fortified wines, sold by wholesaler to a retail outlet authorized to sell distilled spirits by the package and a proportionate tax on the same rate or all fractional parts of a liter. The wholesaler shall remit the tax to the City of East Ellijay on a monthly basis.

Section 3.3 Types of Outlets Where Package Sales are Permitted

- (A) Distilled spirits by the package may be sold at retail, only in:
 - (1) Outlets duly licensed to sell distilled spirits by the package; and
 - (2) Outlets which are devoted exclusively to the retail sale of distilled spirits, beer and wine by the package with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located and not to any other enclosed part of the building or adjoining building, except in hotels, motels, and high-rise office buildings where every public entrance to this outlet shall be from a lobby, hallway, or other interior portion of the primary use structure.
- (B) Nothing in this section shall prohibit the retail sale within these outlets of liquid commodities and mixes normally used in the preparation and serving of distilled spirits. It is the intention of this section to allow the retail sale of distilled sprits by the package only in outlets devoted exclusively to the sale of distilled spirits, beer and wine and to prohibit such sales in outlets that sell groceries, food, gasoline and other such commodities.

Section 3.4 Hours of Sale.

The sale of distilled spirits by the package at locations with approved licenses will be permitted at any time during business hours Monday through Saturday. Distilled spirits by the package may not be sold on Sunday.

Section 3.5 Consumption on the Premises.

It shall be unlawful for any person to consume any alcoholic beverage on premises licensed for the sale of distilled spirits by the package and it shall be unlawful for any licensee authorized to sell distilled spirits by the package to open for, or break the package for a purchaser, and/or permit the consumption of alcoholic beverages on said premises.

Section 3.6 Listing of Prices.

Licensee shall indicate plainly by tag or labels on the bottles or containers, or on the shelf immediately below where the bottles or containers are placed, the prices of all distilled spirits exposed for sale. The licensee shall not display prices or brand names in such a way as to be visible from the outside of the establishment.

ARTICLE IV - ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

Section 4.1 Locations Where Prohibited.

No alcoholic beverages may be sold by the drink for consumption on the premises if the establishment is located under the same roof as an outlet which sales distilled spirits by the package. No alcoholic beverages may be sold by the drink for consumption on the premises, except in eating establishments regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a four compartment pot sink, a stove or grill permanently installed and a refrigerator, all of which must be approved by the Health and Fire Departments) prepared to serve food every hour they are open and prepared to seat 50 or more persons, pursuant to the applicable building, fire and safety codes in effect for the City. When located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure. Outlets not located within hotels shall derive a minimum of sixty percent (60%) of their total annual gross food and beverage sales from the sale of prepared meals or food. On or before the 20th day of each calendar month, each such outlet shall file a report of the previous calendar month's operations with the Mayor verifying compliance with the above provisions. Such report shall be filed on forms designated by the Mayor. Any licensed outlet that fails to meet the appropriate percentage requirements for two consecutive months shall be subject to immediate revocation. An audit may be required at any time to insure compliance with these provisions. If such outlet provides a bar or counter service for the sale of alcoholic beverages for on premises consumption, the seating for such bar shall not exceed ten percent of the total seating capacity of the outlet; provided, however, that this limitation of seating capacity shall not apply to hotel bars that are available for the use of hotel guests. Nothing in this section shall be deemed to prohibit hotel rooms service of alcoholic beverages or to prohibit a hotel from maintaining a bar separate from the restaurant facility, provided access to said bar shall be from a public lobby, hallway, mall or other publicly used interior portion of the hotel.

Section 4.2 License fees.

The applicant shall pay by certified or cashier's check a license fee for the sale of distilled spirits for consumption on the premises to the Mayor in the amount of \$ 1,200.00 to be paid at the time of application for said license or renewal thereof.

The applicant shall pay by certified or cashier's check a license fee for the sale of beer and wine for consumption on the premises to the Mayor in the amount of \$ 800.00 to be paid at the time of application for said license or renewal thereof.

Section 4.3 Excise Tax.

The City hereby imposes an excise tax upon every purchase of an alcoholic beverage for consumption on the premises of three percent of the purchase price of said beverage. Said tax shall be paid by the licensee to the City, and remitted monthly by said licensee. The imposition of this tax shall be administered pursuant to the following rules and regulations:

(A) Every licensee or his agent is hereby authorized and directed to collect the tax imposed

herein from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the Mayor to

facilitate the collection of the tax.

- (B) If requested by the purchaser, every licensee for the sale of alcoholic beverages by the drink shall at the time of collection for food and drinks served give to the purchaser a receipt on which the purchase price and tax imposed by this article on alcoholic beverages by the drink shall be itemized separately. In all cases where the collection of food and drinks is deferred payment or credit, the licensee is liable at the time of, and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The Mayor and City Council shall have the authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of tax.
- (C) The taxes imposed by this section shall become due and payable from the purchaser at the time of purchase of any alcoholic beverage by the drink in this City. The full amount of such taxes collected by the licensee shall be due and payable to the City of East Ellijay monthly, on or before the 20th day of the month following each monthly period. On or before the 20th day of the month following each monthly period a return for the preceding monthly period shall be filed with the Mayor in such form as the Mayor and City Council may prescribe by every licensee liable for the payment of tax hereunder; all returns shall show the gross receipt from the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.
- (D) If the Mayor and City Council have cause to believe that the return, or the amount of the tax required to be paid to the City by any licensee is not proper, they may compute and determine the amount required to be paid upon the basis of any information that is available to them. Should the City determine that a deficiency exists in the amount of tax due by licensee for one or more monthly periods, the amount of the deficiency shall bear interest at the rate of one and one-half percent per month, or fraction thereof from the due date of taxes. The Mayor or his designated representative shall give to the licensee written notice of this deficiency determination, and notice may be served by police officer or by mail; if by mail such service shall be addressed to the registered agent of the licensee. Service by mail is complete when delivered by certified mail a receipt signed by the addressee or by receipt of mailing. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 10th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.
- (E) If any licensee fails to make a return, the Mayor shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, the amount of the total sales within the City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return, and shall be based upon any information which is available to the Mayor. Written notice shall be given in the manner prescribed in the preceding paragraph. The amount of the determination shall bear interest at the rate of one and one-half percent per month, or fraction thereof, from the 10th day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

- (F) Any licensee who fails to pay the tax herein imposed, or fails to pay any amount of the tax required to be collected and paid to the City within the time required, shall pay a penalty of twenty percent of the tax or amount of the tax in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in the preceding section.
- (G) At any time within three years after any tax, or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax, or any amount of tax required to be collected, the City may bring an action in the Courts of this State, any other state or of the United States to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this Ordinance, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, and the City government does not agree with his finding, the applicant will have three years from the date of payment to file claim in writing, stating the specific ground upon which his claim is founded. The claim shall be audited. If the claim is approved by the Mayor and City Council, the excess amount paid to the City may be credited on any amounts then due and payable from the licensee, or may be refunded to the licensee if the licensee is no longer operating a licensed premises in the City.
- (H) The Mayor and City Council shall administer and enforce the provisions of this section for the collection of the tax imposed by this section. Every licensee for the sale of alcoholic beverages by the drink in the City shall keep such records, receipts, invoices, and other pertinent papers in such form as the Mayor and City Council may require. The Mayor and City Council or any person authorized in writing by the Mayor and City Council may examine the books, papers, records, financial reports, equipment, and other facilities of any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. In the administration of the provision of this section, the Mayor and City Council may require the filing of the reports by any person or class of persons having in such person's or persons possession or custody information relating to purchases which are subject to the tax. The report shall be filed with the Mayor and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the Mayor and City Council may require. The licensee shall keep a copy of this Ordinance at the outlet at all times. All employees of the licensee will be informed of the contents of this sections.
- (I) Any person violating any of the provisions of this sections shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine and/or imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this section is committed, continued, or permitted by such person and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the Mayor and City Council, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof, shall be punished as aforesaid.

Section 4.4 Hours of Sale.

Alcoholic beverages shall not be sold for consumption on the premises except between the hours of 6:00 a.m. and 2 :00 a.m. Monday through Friday; between 6:00 a.m. and 2 :00 a.m. on Saturday; and between 12:01 p.m. and 12:00 a.m. on Sundays.

Section 4.5 Consumption Sales Only.

Licensees authorized to sell alcoholic beverages for consumption on the premises shall not be permitted to sell alcoholic beverages by the package at that outlet and shall not permit a purchaser to remove from the premises any alcoholic beverage.

Section 4.6 Licensee's Price List.

Licensees of alcoholic beverages for consumption on the premises shall display in prominent places, inside the outlet and/or on the menu their current prices of distilled spirits, wine, champagne, or malt beverage by the drink and the quantity of such beverage to be sold. The licensee shall furnish to any customer who desires or request an itemized bill of charges which shall not exceed the price list displayed. Provided, however, all licensees will keep a record of all sales of alcoholic beverages sold on which the excise tax is required to be paid under this Ordinance. No display of prices or brand names of alcoholic beverages to be served shall be displayed in such a manner as to be visible from the outside of the licensed outlet.

Section 4.7 Patios and Open Areas.

The consumption of alcoholic beverages shall be allowed in open area and patios, provided that such open area and patios are not visible from the exterior of the premises and further 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.

Section 4.8 Happy Hour Promotions Prohibited.

No licensee shall advertise a happy hour. No licensee may serve discounted drinks, or increase the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage. As used in this code section, the phrase "customarily charged" means the price regularly charged for such alcoholic beverage in the same calendar week.

Section 4.9 Lighting.

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 outlet is opened for business, Also, the lounge and restaurant areas, including all tables, booths, and other areas where customers are served, and all passage ways shall be sufficiently illuminated so that customers may be viewed by others inside the outlet.

ARTICLE V - WHOLESALERS

Section 5.1 License Required.

Any wholesaler dealer in alcoholic beverages licensed by the State of Georgia or the agent of such wholesale dealer, shall be granted a license to distribute such beverages in the City of East Ellijay upon application for such license to the Mayor and the presentation of satisfactory evidence that he understands the alcoholic beverage rules and regulations of this City and the conditions under which retail license are issued.

Section 5.2 License Fees.

A wholesaler of alcoholic beverages sold in the City of East Ellijay, shall pay to the Mayor an annual license fee in the amount of \$ 100.00. (See § O.C.G.A. 3-5-43.) Said license fees are payable at the time of applications for a license or renewal thereof.

Section 5.3 Excise Taxes.

All wholesale dealers engaged in the wholesale distributions of alcoholic beverages to retail package outlets in this City shall pay to the Mayor an excise tax of twenty-two cents per liter of wine for each liter of wine sold to retail package licensees and a proportionate tax at the same rate on all fractional parts of a liter. Further, all wholesale dealers will pay to the City of East Ellijay an excise tax for malted beverages sold to retail package outlets in this City, equal to five cents per twelve ounces and a proportionate tax at the same rate on all fractional parts of twelve ounces. Further, the wholesale dealers shall pay to the City an excise tax on tap or draught beer in the sum of six dollars for each container sold containing not more than fifteen and one-half gallons and a like rate for fractional parts where the draught beer is sold in or from a barrel or bulk container. Further, all wholesale dealers shall pay to the City an excise tax of twenty-two cents per liter for all distilled spirits, except for fortified wine, sold to a licensee authorized to sell distilled spirits by the package and a proportionate tax at the same rate on all fractional parts of a liter. Payment of this excise tax shall be made before the 20th day of each month for all sales made during the previous month.

Section 5.4 Hours of Sale.

The business of wholesale dealers shall be from sunup to sundown only on days the outlets for sale of alcoholic beverages in the original package and by the drink are authorized to sell alcoholic beverages.

Section 5.5 Special Provisions Applicable to Wholesale License.

- (A) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this Ordinance. No wholesaler shall sell any alcoholic beverages to any person other than a retailer licensed under this Ordinance. No alcoholic beverages shall be delivered to any outlet in the City except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

- (B) Licensed wholesalers or their employees shall follow all traffic rules in effect for the City of East Ellijay and shall not in any way conduct their business so as to interfere with the flow of traffic in the City.

ARTICLE VI - LEGAL STATUS PROVISIONS

Section 6.1 Severability.

Should any section, subsection, clause, sentence, phrase, or part of this Ordinance for any reason be held, deemed, or construed to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions thereof and the Mayor and City Council hereby declares that it would have passed this Ordinance, each section, subsection, clause, sentence, phrase, and part thereof irrespective to the fact that one or more sections, subsections, clauses, sentences, phrases, or parts thereof, be declared unconstitutional or invalid.

Section 6.2 Effective Date.

This Ordinance shall become effective immediately upon its adoption and any and all ordinances and resolutions or parts thereof in conflict with this Ordinance be and the same are hereby repealed.

Adopted by the Mayor and City Council of the City of East Ellijay , Georgia, this _____ day of _____, 20 _____.

Mayor

Councilmember

Councilmember

Councilmember

Councilmember

Attest:

City Clerk

Approved as to Form:

City Attorney

