



# ALCOHOL ORDINANCE CITY OF DAHLONEGA, GEORGIA

## Ordinance 2016 - 12

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## ORDINANCE 2016 - 12

### CITY OF DAHLONEGA ALCOHOL ORDINANCE

AN ORDINANCE TO AMEND EXISTING ORDINANCES FOR THE LICENSING, CONTROL, TAXATION, AND REGULATION OF ACOHOLIC BEVERAGES, DISTILLED SPIRITS, MALT BEVERAGES, AND WINE FOR RETAIL BY THE DRINK FOR CONSUMPTION ON THE PREMISES SALES, ALCOHOL CATERING, SPECIAL EVENTS, RETAIL PACKAGE SALES, WHOLESALE ALCOHOL SALES AND FOR MANUFACTURING OF ALCOHOL IN DAHLONEGA, GEORGIA

**WHEREAS**, the City Council of Dahlonega, Georgia desires to combat the undesirable secondary effects of businesses where alcoholic beverages, distilled spirits, malt beverages, and wine may be sold for beverage purposes by the drink for consumption, package sales and other purposes; and

**WHEREAS**, the City council of Dahlonega, Georgia desires particularly to avoid negative experiences of other municipalities and counties regarding problems with certain businesses where alcoholic beverages, distilled spirits, malt beverages, and wine are sold for beverage purposes by the drink for consumption only on the premises where sold, which include criminal activity, undesirable community conditions, the depression of property value in the areas surrounding certain establishments, increased expenditure for law enforcement and an increased burden on the judicial system because of increased criminal behavior; and

**WHEREAS**, the City Council of Dahlonega, Georgia has a substantial government interest in attempting to preserve the quality of life for the citizens of Dahlonega; and

**WHEREAS**, the City Council of Dahlonega, Georgia desires to reduce and prevent criminal activity and the deterioration of property values in Dahlonega; and

**WHEREAS**, the City Council of Dahlonega, Georgia desires to establish a comprehensive and consolidated ordinance for the licensing, manufacturing, wholesaling, taxation, and regulation of the sale of alcoholic beverages, distilled spirits, malt beverages, and wine.

**NOW THEREFORE**, it is hereby ordained by the City Council of Dahlonega, Georgia that the provisions contained herein shall apply regarding alcoholic beverages, distilled spirits, malt beverages, and wine as follows:

**Preamble:** This Ordinance shall amend and restate in their entirety the following City of Dahlonega ordinances: The Malt Beverage and Wine Ordinance 82-1 as amended, The City of Dahlonega Alcohol by the Drink Ordinance 2005-2 as amended and The Dahlonega Growler Ordinance 2014-3. However, Farm Winery Tasting rooms and their accompanying regulations remain independent of this Ordinance and are regulated under the provisions of Dahlonega Ordinance 93-3 as amended.

## ARTICLE I: DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

Alcohol: Ethyl Alcohol, hydrated oxide of ethyl, or spirits of Wine, from whatever source or by whatever process produced.

Alcoholic Beverage: Includes all Alcohol, Distilled Spirits, Beer, Malt Beverage, Wine, or Fortified Wine.

Ancillary Growler License: The document issued by the City of Dahlonega which allows under certain conditions, the filling of reusable containers commonly referred to as Growlers on the Premises of the Licensee directly or vicariously through employees (permittees) who have proper permits issued hereunder.

Ancillary Wine Tasting Permit: License allowing licensed Wine-only Class C Package stores who have acquired a Wine-tasting permit to provide samples of Wine to customers.

Approved Closure: A cork, stopper or twist-type closure approved to close Growlers.

Brewer: A Manufacturer of Malt Beverages.

Broker: Means any Person who purchases or obtains an Alcoholic Beverage from an Importer, Distillery, Brewery, or Winery and sells the Alcoholic Beverage to another Broker, Importer, or Wholesaler without having custody of the Alcoholic Beverage or maintaining stock of the Alcoholic Beverage.

Brown Bagging: The act of a patron or patrons entering any private club, Restaurant, music hall, theater, bowling alley, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patrons' own Alcoholic Beverages. (Note: Brown Bagging is prohibited by this Ordinance.)

Crime of Moral Turpitude: A crime which is contrary to justice, honesty, modesty, good morals or a Person's duty to other people. Offenses that are crimes of moral turpitude for the purpose of this Ordinance include but are not limited to theft, bad checks, shoplifting, making terroristic threats, giving false name to a police officer, false swearing, forgery, fraud or extortion.

Distilled Spirits or Liquor: Any Alcoholic Beverage obtained by distillation or containing more than 21 percent Alcohol by volume, including, but not limited to, all Fortified Wines.

Eating Establishment (A/K/A Restaurant): Eating Establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the Premises with a full-service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An Eating Establishment shall be prepared to serve food every hour the establishment is open and shall show that at least fifty percent (50%) of its

Gross Purchases at wholesale for food (including nonalcoholic beverages) and at wholesale for alcohol are derived from wholesale purchases of food alone and that its primary sales (50% or more) are derived from the sale of food items (meals) prepared on the Premises of the Licensee.

Election Day: That period of time beginning with the opening of the polls and ending with the closing of the polls. Sales of alcohol on Election Day are permitted.

Financial Interest: Includes, but is not limited to, holding any equity or any indebtedness or security interest in a business.

Gross Purchases: For the purpose of this Ordinance, Gross Purchases shall be calculated on the basis of the wholesale price that the Licensee paid for the food (including nonalcoholic beverages) and the wholesale price that the Licensee paid for the alcoholic beverages purchased. This is in addition to the parallel requirement regarding primary sales of the Licensee which shall be calculated on the basis of the price at which the Licensee sells such items to consumers.

Growler: A properly sanitized reusable non-plastic container capable of holding no less than 32 fluid ounces nor no more than 64 fluid ounces and which shall be capable of being sealed with an Approved Closure type at the time of purchase for Off Premises consumption of the contents thereof.

Hotel: A building or other 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, whether transient, permanent or residential, in which rooms are used for the sleeping accommodations of such guests, such sleeping accommodations being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same Premises and are a part of the Hotel operations and which contain on Premises a licensed Eating Establishment/Restaurant. Motels meeting the qualifications set out in this definition for Hotels shall be classified in the same category as Hotels. Hotels shall have the privilege of granting franchises, for example leasing restaurant space, for the operation of any licensed establishment described in this Ordinance, and the holder of such franchise shall be included in the definition of a Hotel pursuant to this definition.

Immediate Family: Means any Person related to the holder of an Alcoholic Beverage license within the first degree of consanguinity or affinity as determined according to canon law, which shall include a Person's spouse, parents, stepparents, parents-in-law, brothers and sisters, stepbrothers and stepsisters, brothers-in-law and sisters-in-law, children, stepchildren, and children-in-law.

Importer: Means any Person who imports an Alcoholic Beverage into this state from a foreign country and sells the Alcoholic Beverage to another Importer, Broker, or Wholesaler and who maintains a stock of the Alcoholic Beverage.

Legal Alien: A foreign national who possesses a valid United States government-issued I-551 card. An application for I-551 status does not meet the Legal Alien definition. Any other status which allows a Person to enter the United States does not comply with this definition.

Legal Resident: A United States citizen or a Legal Alien.

Licensed Alcoholic Beverage Caterer: Any holder of a class D, E, or F Alcoholic Beverage license issued under this Ordinance who shall show that at least fifty percent (50%) of the Gross Purchases at wholesale for food (including nonalcoholic beverages) and at wholesale for alcohol are derived from wholesale purchases of food alone and that its primary sales (50% or more) are derived from the sale of food items (meals) prepared on the Premises of the caterer (Licensee). A Licensed Alcoholic Beverage Caterer shall qualify under and with the provisions set forth in O.C.G.A. Title 3, Chapter 11.

Licensed Premises or Premises: Includes all the space or area owned, leased and/or controlled by the Licensee and used for the purpose of operating under the license, including but not limited to all rooms wherein Alcoholic Beverages are stored, sold, furnished, served, or consumed, except when such a room is located in a Hotel, Motel, or similar facility or in a shopping center in which case only such room and any adjoining storage, office, toilet, and other similar rooms actually used for the storage, sales, furnishing, service or consumption of Alcoholic Beverages shall constitute the Licensed Premises. For Class D, E, or F licenses, such Premises include adjoining patios, decks, or porches. A floor plan for each licensed premises as defined herein must be submitted with each application and/or renewal for a license under this Ordinance.

Licensee: The Person to whom a license under this Ordinance is issued. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are Licensees. Employees of the Licensee are considered agents of the Licensee and the actions of Employees are imputed to and are considered actions of the Licensee. All corporations, LLC's and partnerships are also considered Persons under the terms of this Ordinance. See definition of Person for complete list of entities included within the term Person. Each owner, member, officer or manager of the Licensee or potential Licensee shall be considered an applicant for the purposes of this Ordinance, and if granted, each individually and collectively shall be considered a Licensee.

Malt Beverage: Means any Alcoholic Beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 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.

Manufacturer: Any maker, producer, or bottler of an Alcoholic Beverage. The term also means:

- (a) In the case of Distilled Spirits, any Person engaged in distilling, rectifying, or blending any Distilled Spirits; and
- (b) In the case of any Malt Beverages, any Brewer; and
- (c) In the case of Wine, any Vintner.

NOTE: A Manufacturer will also be subject to certain state, federal and other licenses or requirements including under certain cases a mandatory referendum.

Manager: A Person who has responsibility for management of the operations, including sale of Alcoholic Beverages, at the location to be licensed or supervision of management of the operations, including sale of Alcoholic Beverages, at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor, or other ownership entity.

Package: A bottle, can, keg, barrel or other original consumer container.

Person: Any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other entity or group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

Pouring Permit (A/K/A Server Permit): An authorization granted by the City of Dahlonega to dispense, serve or mix Alcoholic Beverages in establishments licensed as Class D, E or F establishments and in Class B establishments who hold an Ancillary Growler License.

Restaurant (A/K/A Eating Establishment): Means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the Premises with a full-service kitchen. A full-service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. A Restaurant shall be prepared to serve food every hour it is open and shall show that at least fifty percent (50%) of its Gross Purchases at wholesale for food (including nonalcoholic beverages) and at wholesale for alcohol are derived from wholesale purchases of food alone and that its primary sales (50% or more) are derived from the sale of food items (meals) prepared on the Premises of the Licensee.

Retail Beer or Wine Package Store: A retail establishment which engages in the sale of packaged food, fresh produce, uncooked meats, dairy or other nonalcoholic food items and conducts all of its alcohol sales inside the building containing its retail floor space. Included in this definition are food stores, supermarkets, convenience food stores and discount/general merchandise stores. Gross sales of food must equal \$1,500.00 per month.

Retail Consumption Dealer: Any Person who sells Alcoholic Beverages for consumption on the Premises only to consumers and not for resale. These include retail Malt Beverages, Wine and Distilled Spirits Licensees.

Retail Package or Package: Sales of Malt Beverages or Wine packaged to go and not for consumption on the sales Premises.

Retailer or Retail Dealer: 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. These include retail Malt Beverage Package and retail Wine Package Licensees.

Wholesaler or Wholesale Dealer or Wholesale Distributer: Any Person who sells Alcoholic Beverages to other wholesale dealers, to Retail Dealers, or to Retail Consumption Dealers.

NOTE: A Wholesaler, Wholesale Dealer or Distributor will also be subject to certain state, federal and other licenses or requirements including under certain cases a mandatory referendum.

Wine: Any Alcoholic Beverage containing not more than 24 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, all sparkling Wines, champagnes, combinations of such beverages, vermouths, special natural Wines, rectified Wines and like products. The term does not include cooking Wine mixed with salt or other ingredients so as 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.

## ARTICLE II: LICENSE REQUIRED, CLASSES AND FEES

(a) License required.

It shall be unlawful for any Person to manufacture or offer for sale, at retail or wholesale, within the corporate limits of the City of Dahlonga any Alcoholic Beverage, including Malt Beverage or Wine, without having a Manufacturer's license or Retail or Wholesale Alcoholic Beverage dealer's license. It shall be unlawful for any Person to manufacture, furnish, sell or offer for sale, at retail or wholesale, within the corporate limits of the City of Dahlonga any Alcoholic Beverage, including Malt Beverage or Wine, in violation of the terms of such license or this Ordinance. Note: Manufacturing and Wholesaling of Alcoholic Beverages may be conditioned upon other requirements and regulations including but not limited to state and federal licensure as well in some cases referendum requirements.

(b) Classes.

The licenses shall be divided into the following classes:

- (1) Class B, retail beer Package, eligible for an Ancillary Growler License as permitted under Article (IX);
- (2) Class C, retail Wine Package, eligible for Ancillary Wine Tasting Permit if Wine-only (Pursuant to Requirements and Conditions Set Forth in Appendix A);
- (3) Class D, retail liquor by the drink;
- (4) Class E, retail beer by the drink;
- (5) Class F, retail Wine by the drink;
- (6) Special Wine Tasting Permits. A temporary Wine Tasting Permit issued to certain types of charitable organizations and others under Article XVI: Temporary Special Event Licenses.
- (7) Class H, Wholesale Beer;
- (8) Class I, Wholesale Wine;
- (9) Class J, Licensed Alcoholic Beverage Caterer;
- (10) Class K, Brewer, Manufacturer of Malt Beverages or Wine.



(c) Fees: Base fees, administrative fees, and other specific fees.

(1) The base fees for each type of license listed in paragraph (b) hereinabove shall be as follows:

*Table 1 License base fees*

Class B	Retail Beer Package	1,200.00 for stores up to 10,000 sq. feet, 1,800.00 for stores over 10,000 sq. feet.
Class C	Retail Wine Package	1,200 for stores up to 10,000 sq. feet, 1,800.00 for stores over 10,000 sq. feet
Class D	Retail Liquor by the drink	2,400.00
Class E	Retail Beer by the drink	1,200.00
Class F	Retail Wine by the drink	1,200.00
Class H	Wholesale Beer	1,000.00
Class I	Wholesale Wine	1,000.00
Class J	Licensed Alcoholic Beverage Caterer	Resident caterer – beer/Wine/liquor 75.00  Resident caterer – beer/Wine 50.00  Resident caterer – liquor 50.00  Nonresident caterer – beer/Wine/liquor 75.00  Nonresident caterer – beer/Wine 50.00  Nonresident caterer – liquor 50.00
Class K	Brewer, Manufacturer of Malt Beverages or Wine	1000.00

(2) Temporary Special Event fees are set at \$100.00 per day.

(3) Reserved.

- (4) Collection of fees or taxes; sums due. If any Person shall fail to pay the sum due under this Ordinance, then the City Council or the City Council’s designee shall issue an execution against the delinquent Person and such Person’s property for the amount of the fee or tax, and may, further administratively act to discontinue city utilities to the Premises of the applicant. The City may institute any other action in law or equity to collect any sum due under this Ordinance or to enforce any provision of this Ordinance.
- (5) Ancillary Wine-Tasting Permit fee. Class C Licensees who engage in Wine-tastings as permitted under certain conditions shall pay, in addition to the above fees, a fee of \$150.00 annually at the same time as the annual Class C license fee is paid. The conditions are as set forth in Appendix A attached hereto.
- (6) Ancillary Growler License fee. Any applicant for or holder of a valid Class B license shall be eligible for an Ancillary Growler License as permitted under Article IX. In addition to the above fees, the Licensee shall pay a fee of \$250.00 annually at the same time as the annual Class B license fee is paid.
- (7) Administrative and Background Check fees. New applications and annual background checks which are required for renewal applications for any license under this Ordinance shall be accompanied by a check for an administrative fee to defray investigative and administrative costs. Should the applicant be denied a license, or should the applicant withdraw the application prior to its being submitted to the City Council the deposit representing the license base fee shall be refunded; however, the administrative fee cost paid for administrative costs and investigation shall be retained. Administrative fees for investigation and administration costs are as follows:

*Table 2 Administrative and background check fees*

Alcohol caterers	40.00
All new consumption license applications (Classes D, E, and F)	250.00 per initial application and 150.00 each year after initial application year
All new Package license applications (Classes B and C)	150.00 per person at initial application then 50.00 each year of renewal

- (d) Change of business.

A new owner shall be treated as if the application were an initial filing for the purpose of the background check.

- (e) Payment.

The fees referred to in this section shall be payable annually on or before October 31<sup>st</sup> for all consumption licenses (Class D, E and F) and on or before November 15<sup>th</sup> for all Package licenses (Classes B, C and all other classes). Any application filed on or before July 1<sup>st</sup> of

the calendar year shall pay the full price for the application. If the license is applied for after July 1<sup>st</sup> then the base fee is half of the full amount. If the license is purchased and is not used for the full calendar year or if the license is revoked or suspended following issuance thereof, there shall be no refunds for any portion of the fees. All new license fees must be paid and received by the City at the time of application. Refunds will be issued if the license is not approved. Payment shall be made by means of a cashier's check or credit card.

### **ARTICLE III: GENERAL APPLICATION PROCEDURE**

(a) Generally.

The applicant for a license under this Ordinance shall make a written application under oath on the form as provided by the City Clerk or her designated representative. Except as otherwise provided by law, such application shall be a public record and open to public inspection by any citizen of the City of Dahlonoga at a reasonable time and place. In the event of annexation into the City of Dahlonoga of businesses operating lawfully within the unincorporated county, that business may be issued a license instanter. Notwithstanding any other provisions of this Ordinance to the contrary, a second license may be issued to an existing Licensee upon payment by the applicant of the applicable occupational tax and the fees set forth herein, provided that all other requirements set out in this Ordinance have been met prior to the date of application, and provided that the applicant has no violation of any city Alcohol regulations within the 120 days immediately preceding the application.

Applications for licenses shall contain but not be restricted to the following statements and information:

- (1) The name, age, address and length of residency of the applicant;
- (2) The name, location and description of the Premises or place of business which is to be operated under such license;
- (3) A statement of whether the applicant, or any Person with any interest in the application has made application at any previous time for any Malt Beverage, Wine of Distilled Spirits License and the disposition of that application, stating in detail the governmental authority involved and the business entity for which the license was sought;
- (4) Whether the applicant or any Person with any interest in the application has ever been convicted of a crime, other than for traffic violations; and submit to a G.C.I.C. verification of that statement;
- (5) Whether a previous license issued to the applicant or any Person with any interest in the application has been revoked by any state or subdivision thereof or by the Federal Government and the reason therefore;
- (6) Whether any other Person is to be interested directly or indirectly in the profits or losses or both of the proposed business;

(b) Administrative and Background Check Fee.

The applicant, upon turning in his complete application to the City Clerk or her designated representative, at the same time shall provide a certified check or credit card payment for the applicable Administrative and Background Check fee as listed above in Article II(c) made payable to the City of Dahlonoga for the application fee, plus any additional related fees required by any other governmental agencies or departments for individual fingerprinting and related searches. All Managers, Officers and anyone having an ownership interest in the Licensee or potential Licensee must submit to a background check. A new Administrative and Background Check Fee must be paid for each additional investigation done during the year due to ownership or Manager change.

Additionally, each applicant for a new license shall submit to the City Clerk such information as may be required by the Georgia Crime Information Center and by the Federal Bureau of Investigation, including classifiable sets of fingerprints. Application for a license under this Ordinance shall constitute consent for performance of a records check comparison for all the individuals required by this Ordinance to be checked.

(c) Entities—Ownership.

All applicants other than individual Persons shall list the names and addresses of all individual Persons who have an ownership interest in such entity and the percentage ownership of each Person, unless the corporate stock or other ownership interest is listed on a stock exchange or available for over the counter sales and subject to regulation by federal and state securities laws. If a named interest owner therein is another corporation or other entity, the same information shall be given for such corporation or entity. If during the life of the license, the identity of the interest owners or their percentage of ownership should change, that information shall be sent to the City Clerk or any designated representative for processing. A change in ownership shall require a new application. Corporations and limited liability companies must file a compliance copy from the office of the Secretary of State showing active status as an incorporated business.

(d) Same—Additional data.

- (1) Corporate, partnership, sole proprietors, and limited liability company applications. All corporate applicants shall list the names and addresses of the officers of the corporation. All sole proprietors shall apply in the name of the sole proprietor. All limited liability applicants shall provide the names and addresses of all members and Managers of the limited liability company. In addition, thereto, all applicants, including sole proprietors and partnerships if the sole proprietor or at least one partner is not working full-time in a managerial capacity on the Premises, shall name a Manager, whose name shall appear as such on the license issued. The corporation, partnership, sole proprietor, or limited liability company shall provide the name and address of said Manager, who shall be a full-time employee of the corporation, partnership, sole proprietorship, or limited liability company and who shall be the individual who does in fact have regular, managerial and supervisory authority over the business conducted on the Licensed Premises. In addition, the Manager shall be an agent for service for the corporation, partnership, sole proprietorship, or limited liability company in addition to all other methods allowed for serving a corporation or other entity by the laws of Georgia. Any Person who has been a Manager of a corporation, partnership, sole proprietorship, or limited liability company whose alcohol license has been revoked is ineligible to act as Manager for any Licensee thereafter for a period of 10 years after such revocation. A change in ownership shall require a new application.

(e) Investigation.

The City Clerk or designated city official or agent shall submit the application after filing to the Lumpkin County Sheriff's Office. Each applicant authorizes the City of Dahlonega and its agents to secure from any court, law enforcement agency, or other public agency his criminal history and the criminal history of all individuals required to be listed on the application, including but not limited to sole proprietor, partners, members, corporate officers, stockholders, and Managers, and authorizes the City of Dahlonega to use such information in determining whether the license applied for shall be issued. Each applicant waives any right that he would otherwise have to preclude the City of Dahlonega or its agents from obtaining and using such information and each applicant further waives any liability of the City of Dahlonega or its agents for obtaining and using such information, and agrees to indemnify and hold City of Dahlonega harmless against the claims of any Person listed by the applicant on the application and by doing so has authorized the City of Dahlonega to investigate. The Lumpkin County Sheriff's Office shall make an arrest and conviction investigation concerning any applicants hereunder and all individuals required to be listed on the application, including but not limited to sole proprietor, partners, LLC members, corporate officers, corporate stockholders, and Managers. The Lumpkin County Sheriff's Office shall submit the results of the investigation to the City Clerk or other city official or agent within 30 days of submission.

(f) Offenses.

Any individual making a false statement in any application for a license or false statement in connection with renewal thereof, shall be guilty of an offense and punished as provided by state law relating to false swearing, and further, a license, if previously granted or renewed, may be revoked for the violation in the discretion of the Administrative Hearing Officer as provided in the Administrative Hearing Officer Ordinance 2015-6 after notice and hearing. It shall be an offense for any Person to give other than the true and correct legal name of the intended Licensee. and a conviction for a violation thereof shall be punished as provided by state law.

(g) Duration; renewal.

All licenses are issued only on a yearly basis and shall be eligible for renewal each year following issuance. Any license that is renewed pursuant to this Ordinance shall be subject to any of the enforcement actions and imposition of any of the remedies provided in Article XIII of this Ordinance even though conduct that is the basis of such enforcement action may have occurred in a previous license year or an administrative hearing with respect to such license may have been initiated in a prior license year. In the event that a license has been revoked by the Administrative Hearing Officer, and the Licensee has appealed such revocation to the Superior Court, or the time for filing such an appeal has not expired, consideration or issuance of any application for renewal of such license for a subsequent year shall be suspended until final judgment in the appeal has been entered by the Court or the revocation has become final with no appeal being filed. Each Licensee shall make a written application for renewal on or before October

31<sup>st</sup> for Class D, E and F licenses or on or before November 15<sup>th</sup> for Class B and C and all other licenses of each calendar year which shall swear to the truthfulness of such information that is the same as the prior application and shall set forth facts which are different from the prior year's application. The form shall be approved by the City Clerk or her designated representative. All fees shall be tendered with the application in the form of a cashier's check or credit card.

(h) Penalty for filing renewal application and license fee payment late.

There shall be a penalty fee charged for filing Alcoholic Beverage renewal application and license fee payment after October 31<sup>st</sup> for Class D, E and F licenses or after November 15<sup>th</sup> for Class B and C licenses as follows:

*Table 3 Penalties for filing application and fee late*

1 –15 days late	\$200.00
16-30 days late	\$300.00
After 30 days late	\$500.00

If an Alcoholic Beverage license renewal application and license fee have not been filed with the City of Dahlonge City Clerk by the last business day in December of each year, the license shall expire by operation of law and any relicensing shall require a new application.

(i) Taxes and Fees.

All taxes, fees, and utility bills due to the City of Dahlonge, must be paid prior to license issuance or renewal.

(j) State license; forfeiture for failure to comply; revocation of state license.

A state Alcoholic Beverage license must be obtained by the applicant in order for the license issued by the City of Dahlonge to be valid. Failure of the Licensee to obtain a state license before beginning operation of the Premises shall result in cancellation of the license issued by the City of Dahlonge, and no refund of license fees shall be made to the Licensee. If a state Alcoholic Beverage license is revoked or suspended by the state, then the license issued by the City of Dahlonge shall automatically be revoked or suspended as of the date of such revocation or suspension and, in the case of suspension, for an identical term.

(k) Licenses or permits require conformance to Ordinance provisions.

All Alcoholic Beverage licenses or permits issued hereunder are subject to all terms and conditions imposed by this Ordinance and related laws and other Ordinances of the City

of Dahlonega relating to such business, as amended from time to time by the Mayor and Council.

- (l) Objections to ownership. After receipt of application and notice of ownership interests, where City investigation determines that one or more persons disclosed in the application are ineligible to hold an interest in an alcoholic beverage license in the City, the City Council shall notify the Applicant and disqualified Person within a reasonable time of any objections to the ownership or interest set forth therein, and it shall then be incumbent upon the disqualified Person to dispose of such interest within thirty days after the mailing of the notice to do so by the City Council to such Person at his address as shown on such notice of interest; the Applicant shall provide proof to the City of the change of interest required. No license shall be issued by the City until removal of the disqualified Person has been verified. In the event a disqualifying interest is discovered during the renewal process, the Applicant shall be given the same thirty day period to correct the defective interest after the mailing of the notice by the City Council. Upon failure of an existing license holder to complete the substitution of a qualified interest for a disqualified interest, then the license as provided for herein is subject to revocation until disposition of the interest has been made or notice given to the City Council of the transfer. Notice and hearing before the Administrative Hearing Officer shall be required to determine the issue of revocation.
- (m) No alcohol license shall be issued to any Person unless the building on the Premises is complete and pictures of the four sides of the location are attached to the application. The completed building or building or the proposed building shall comply with the building codes and Ordinances of the City of Dahlonega and the regulations of the State of Georgia. The proposed building shall also be subject to final inspection and approval when completed by the building inspector.
- (n) Each applicant for an alcohol license shall attach to his application evidence of ownership of the Premises or a copy of the current lease if the applicant is leasing the Premises.
- (o) The City Council shall have final approval of all alcohol license applications. No application shall be acted upon by the City Council of Dahlonega except at a regular or special called meeting of said City Council. No application shall be denied except after hearing before the City Council with notice to the applicant and an opportunity for the applicant to be heard and to provide evidence and witnesses. Appeals from any denial by the Council pursuant to this chapter shall be by writ of certiorari to the Superior Court of Lumpkin County.
- (p) Every application for a license hereunder shall be accompanied by a drawing to scale, showing the property upon which the license shall operate its business.



- (q) No new application for a license hereunder shall be acted upon by the City Council until after the applicant shall have run a notice of said application in a local newspaper at least one time per week for four weeks preceding the regular meeting at which time the application is to be presented and considered. Said notice shall contain the name of the Person applying and the name of the Person for which the application is submitted, if different, and the location of the proposed Premises together with such other information from the application as deemed pertinent by the City Clerk. An affidavit of the publisher or his authorized agent certifying the advertisement has been published shall accompany such application.
- (r) Personal statements may be required. The Council may in its discretion require a personal statement from any owner, manager or employee of any licensed establishment for licensing purposes.
- (s) Disqualified applicants. The following persons are disqualified from holding an interest in an alcoholic beverage license:
- i. Any Person who has been convicted of or pled guilty under any Federal, State, or local law within the past 10 years to any felony offense involving alcoholic beverages, narcotics, gambling or tax evasion or any misdemeanor or felony involving moral turpitude.
  - ii. Any Person who is an employee of the City of Dahlonega, Georgia, although family members and relatives of employees are eligible to hold such a license. Elected officials are not considered employees for the purpose of this section.
  - iii. Any Person, firm, partnership, association or corporation proposing to employ any Manager who has been convicted of or pled guilty within the preceding 10 years to any felony offense involving alcoholic beverages, narcotics, gambling, tax evasion or to any misdemeanor or felony involving moral turpitude.
- (t) City Council licensing decision (new application or renewal). The City Council shall consider the following factors in making its determination as to whether issuance of a license to sell Alcoholic Beverages supports or is contrary to the public health, safety and welfare:
- i. The business experience, financial standing, trade associations, personal associations, record of arrest, or reputation in any community in which each Applicant and interested Person has resided;
  - ii. Whether the proposed business location is suitable in the judgment and discretion of the City Council considering traffic congestion, general character of the neighborhood, and the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood generally.
  - iii. Whether the number of Alcohol licenses already granted in the immediately surrounding area makes an additional license contrary to the public interest or welfare.
  - iv. Whether the location of the proposed business would be in violation of the Zoning Ordinance or other similar regulation of the City of Dahlonega.

- v. Whether the location is the same as that at which a previous license has been revoked or suspended, and where, in the judgment of the City Council, the problems which have arisen from the operation of an Alcohol license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of Alcoholic Beverages be permitted at such location.
- vi. Whether the granting of such license would constitute a violation of State or local law, regulation or Ordinances regulating the sale of alcoholic beverages.
- vii. Whether the applicant or applicants are for any reason disqualified under the terms of this Ordinance.
- viii. Whether the applicant or applicants meet or can meet all the terms of this Ordinance.
- ix. Whether the applicant or applicants have been cited at the location for violation of other city ordinances or regulations.

No license application shall be denied without notice to the applicant and an opportunity for the applicant to be heard.

**ARTICLE IV: SAME – GENERAL APPLICATION PROCEDURE (CONTINUED)**

(a) Special Disqualifications.

In addition to those disqualifications from holding an interest in a license set forth in subsection (s) in Article III, no license defined herein shall be issued to a Person:

- (1) who is not a Legal Resident of the United States;
- (2) who is not at least 21 years of age prior to the date of application;
- (3) who owes any debt or obligation to the City of Dahlonega including but not limited to excise taxes, occupational taxes, property taxes, or utility fees; or
- (4) who indicates on the license application an intention to provide live nude performances on the Premises or any other form of adult entertainment on the Premises.

(b) Disqualifications regarding local Ordinance violations.

Further, no license for the sale of Alcoholic Beverages shall be issued to any Person who has been convicted of three violations of the Ordinances of the City of Dahlonega governing Alcoholic Beverages licensed hereunder within the last ten years immediately prior to the filing of the Licensee's application with the City Clerk, except as specifically provided in paragraph (d) below, concerning selling Alcohol to underage Persons. If at the time of application, the applicant is charged with any of the offenses proscribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal.

(c) Disqualification following revocation.

No license for the sale of Alcoholic Beverages shall be granted to any Person who has had a license to sell Alcoholic Beverages revoked within five (5) years prior to the filing of an application.

(d) Immediately following a citation.

Except as provided in paragraph (e) below, for 24 consecutive months immediately following the date of a conviction in a proceeding before the Administrative Hearing Officer or the Municipal Court Judge of the City of Dahlonega for any violation involving selling Alcohol to underage Persons within a licensed premises, no application for change in ownership of the license at the same location where the violation occurred shall be allowed unless there is a 100 percent change in ownership and control between the old Licensee and the new applicant. For purposes of this subparagraph, 100 percent change in ownership and control shall mean a 100 percent change in all individuals, partners, officers, directors, shareholders, members, Managers and/or all Persons having any whole, partial, beneficial or other interest in the business where the Alcoholic Beverage license is located. 100 percent change in ownership and control shall not include a transfer in ownership and control to any Person in the Immediate Family of any individuals, partners, officers,

directors, shareholders, members, Managers and/or any Persons having any interest in the business where the Alcoholic Beverage license is located. The application for the Alcoholic Beverage license must be applied for and approved prior to the sale of the business. An Alcoholic Beverage license may not be issued until the new owner has established that the sale of the business is bona fide. The applicant for the new license must provide documentation concerning the sale, including but not limited to documentation concerning ownership of and all business interests in the old license in addition to documentation concerning the ownership of and all business interests in the new license, as requested by the City Clerk.

(e) Immediately following a citation – continued.

For 24 consecutive months immediately following the date of a conviction before the Administrative Hearing Officer or the Municipal Court Judge of the City of Dahlonega for any violation for selling Alcohol to underage Persons within a licensed premises, an application for less than 100 percent change in ownership and control between the old Licensee and the new application shall be allowed only if the following requirements are met:

- (1) The applicant for less than 100 percent change in ownership of the license at the same location where the violation occurred must agree as part of the application that any past convictions for selling Alcohol to underage Persons within the licensed premises shall become part of the record of violations for the new business as if the new owners had been cited and found in violation. Such record of violations shall be taken into consideration in any future hearings against the new Licensee.
- (2) Such applications for less than 100 percent change in ownership shall be made prior to the sale of the business but after any pending citations for violations for selling Alcohol to underage Persons within the licensed premises are adjudicated.

(f) Holding retail license and wholesale license prohibited.

No Person shall hold a license in any retail category hereunder and a license under any wholesale category at the same time.

## **ARTICLE V: GENERAL REGULATIONS PERTAINING TO ALL LICENSEES**

- (a) License not transferable to another location.  
Each license is issued for a specific location only and may not be transferred to another location. A new application is required for each licensed premises. No license, except for a Manufacturer license, may be issued to different Licensees for the same location.
  
- (b) Transfer of license to another Person.  
No Alcoholic Beverage license shall be transferred from one Person to another during the year in which the license was obtained, except in the case of the death of a Person holding a license, in which event his personal representatives or his heirs may continue to operate under the said license for the balance of the year without payment of any fee, if otherwise qualified as license holders and approved by the City after background checks.
  
- (c) Location.  
None of the above licenses shall be issued except in zones allowing such establishments as established in the Zoning Ordinance of the City of Dahlongega. No Person may sell or offer to sell alcohol within 100 yards of an alcohol treatment facility.
  
- (d) Interests of public employees; prohibited.  
No license shall be granted to any City of Dahlongega employee. Further, no license shall be granted to any state or federal employee whose duties include the regulation or policing of Alcoholic Beverages or licenses or any tax-collecting activity. Elected officials are not considered employees of the City of Dahlongega.
  
- (e) Inspection of books and accounts.  
Upon demand by the City Clerk or the City Attorney, or his or her designated representative, any Person holding a license from the City of Dahlongega shall furnish to the City's designated representative during normal business hours at such Person's place of business all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sale receipts, inventory and other information, including exhibition of bank deposit books, bank statements, and copies of sales tax reports, and any other such documents as City of Dahlongega may deem necessary. Any Person holding a license from City of Dahlongega shall secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in this section.
  
- (f) Failure to open.  
All holders of licenses issued hereunder must within 45 days after the issuance of such license open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to within such period shall serve as a forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.

- (g) False representation of age.  
It shall be unlawful for any Person to falsely misrepresent his age in any manner whatsoever for the purposes of purchasing or otherwise acquiring any beverage licensed hereunder.
- (h) Adding to, refilling bottles, misrepresentations as to quantity, etc.  
It shall be unlawful for a Licensee hereunder, his employees, subcontractors or his agents, to add to the contents of a bottle or to refill an empty bottle or in any manner to misrepresent the quantity, quality or brand name of any beverage licensed hereunder.
- (i) Hours of operation.  
The following hours of operation shall apply to the sale of Alcoholic Beverages licensed hereunder:
- (1) Reserved.
  - (2) Class B and C, Retail Package beer and/or Wine—7:00 a.m. to 12:00 midnight, Monday through Saturday; Sunday sales between the hours of 12:30 p.m. and 11:30 p.m.
  - (3) Class D, retail distilled spirits by the drink—Monday through Friday beginning at 10:00 a.m. until 1:00 a.m. the next day; Saturday from 10:00 a.m. until 1:00 a.m. Sunday morning, further on Sunday as otherwise provided pursuant to appropriate permit and consistent with Georgia law;
  - (4) Class E and F, retail malt beverages and/or Wine by the drink- Monday through Friday beginning at 10:00 a.m. until 1:00 a.m. the next day; Saturday from 10:00 a.m. until 1:00 a.m. Sunday morning, further on Sunday as otherwise provided pursuant to appropriate permit and consistent with Georgia law;
  - (5) Class D, E, and F licenses for Alcoholic Beverages which also have a valid Sunday sales permit shall be authorized to sell, offer for sale, serve and/or permit the consumption of Alcoholic Beverages upon the Licensed Premises between the hours of 12:30 p.m. and 12:00 midnight on Sundays for all Alcohol which is allowed to be sold on Sundays in Dahlonega;
- (j) Active engagement in business required. All licenses issued pursuant to this Ordinance shall be valid only so long as the Licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the Licensee shall cease to actively engage in such business, the Licensee of such business shall immediately notify the Council, in writing, and return the license to the City.
- (k) Sales on election day.  
The sale of Alcoholic Beverages on any Election Day shall be permitted in accordance with O.C.G.A. § 3-3-20.

- (l) Sales, etc., to Persons under legal age.  
No Licensee, employee or agent of the Licensee shall provide Alcoholic Beverages to any person under the age permitted by O.C.G.A. § 3-3-23.
- (m) Display of license.  
Every Licensee, its agents or employees, shall post the most current state and local Alcoholic Beverage license issued for the Licensed Premises in public view at eye level (an approximate height of five feet from the floor) within 15 feet of the entrance to the Licensed Premises.
- (n) Bringing beverages purchased elsewhere onto Premises.  
No Licensee for the sale of Malt Beverages, Wine or Distilled Spirits shall authorize or permit any patron or customer to bring onto the Premises Malt Beverages, Wine or Distilled Spirits purchased elsewhere. Further, no Licensee for the sale of Malt Beverages, Wine or Distilled Spirits shall bring onto the Premises any Malt Beverages, Wine or Distilled Spirits purchased from a Retailer for the purpose of resale or from any entity other than a licensed distributor.
- (o) Brown Bagging.  
Brown Bagging as defined in this Ordinance is prohibited within the City of Dahlonega.
- (p) On-Premises entertainment.  
It shall be unlawful to permit on the Premises so licensed any contest or form of entertainment which consists of the wetting or soaking of the upper torso of a female or the pelvic areas of a male or female.
- (q) Sales areas, activities.  
Except as otherwise allowed under the terms of this Ordinance, it shall be unlawful for any Licensee to make delivery of any Alcoholic Beverages licensed to be sold except within the Premises or area licensed for sale thereof. No Package Store Licensee shall permit the consumption of Alcohol sold by the licensee to be consumed on the lot or Premises where the licensed establishment is located, nor shall any individual consume the contents of such packages on the lots or Premises where the licensed establishment is holding a Class B or C license. This section shall not pertain to samples and tastings on the Premises which are licensed or otherwise regulated under this Ordinance.
- (r) Possession of unlicensed beverages.  
All Licensees hereunder are forbidden to possess, keep, maintain or otherwise store or keep any Alcoholic Beverages for which the Licensee does not hold a license on the Premises so licensed.
- (s) Consumption of Alcohol by Employees of Licensee.  
It shall be unlawful for any employee of any Licensee to consume Alcoholic Beverages on the Premises of the Licensee during such employee's working hours.

- (t) Limitation on persons who may serve alcohol.  
Alcoholic Beverages shall only be served by the Licensee or the Licensee's employees who hold valid Pourer a/k/a Server Permits issued under the terms of this Ordinance.
- (u) Suspension of sales during civil emergency.  
The City of Dahlonega City Manager may, upon determining that there is an immediate danger of civil disorder or natural disaster or any other immediate threat to the public peace and order, by executive order, suspend the sales of all beverages licensed under this Ordinance until such danger or threat has passed and for a reasonable period of time thereafter.
- (v) No license holder nor any agent or employee of the Licensee shall knowingly sell any Alcoholic Beverage to any Person while such Person is in an intoxicated condition.
- (w) No license holder nor any agent or employee of the Licensee shall permit on the Licensed Premises any disorderly conduct or breach of the peace.
- (x) No license holder nor any agent or employee of the Licensee shall sell, offer for sale, possess, or permit the consumption on the Licensed Premises of any kind of alcoholic or Malt Beverages and Wines, the sale or possession of which is not authorized under this license.
- (y) No license holder nor any agent or employee of the Licensee shall sell or offer for sale Alcoholic Beverages by use of vending machines.
- (z) No license holder nor any agent or employee of the Licensee shall receive or allow Alcoholic Beverages to be delivered to the Premises of the Licensee by means other than a conveyance owned and operated by a Wholesale Dealer with authority to make deliveries in the City of Dahlonega. Transportation of Alcoholic Beverages by any other means shall be grounds for revocation of all licenses concerned.
- (aa) No Licensee of the City of Dahlonega shall accept delivery of Alcoholic Beverages from any Wholesale Dealer unless the Wholesale Dealer has fully complied with the laws of Georgia regulating and taxing the sale of same at wholesale.
- (bb) The failure of the license holder to promptly report to the Sheriff's Department and the City of Dahlonega of any violation of law, regulation, or City of Dahlonega Ordinance, or breach of the peace, disturbance, or altercation occurring on the Premises shall be grounds for the suspension and/or revocation of the license to be determined by the Administrative Hearing Officer.
- (cc) The failure of the license holder to furnish to the City Clerk any report required by this Ordinance or requested in writing by the City Clerk shall subject the license to suspension to be determined by the Administrative Hearing Officer.



- (dd) The failure of any license holder to pay any tax due to City for the sale of said commodities promptly when due shall subject said license holder to a penalty of 25% of the amount of tax due or shown to be due in addition to said tax.
- (ee) The holder of a license to sell Alcoholic Beverages in Dahlonge shall have available at all times at the Licensed Premises a copy of this Ordinance and shall be responsible for compliance herewith by all Persons on the Premises.
- (ff) It is prohibited for a Licensee to acquire alcoholic beverages provided by a Licensee other than by purchase in person within the Licensed Premises except as specifically permitted by the City of Dahlonge under the terms and conditions of this Ordinance. Neither shall persons acquire alcoholic beverages from a Licensee and consume them in the outdoor area adjacent to the premises except as otherwise permitted by the City of Dahlonge under the terms and conditions of this Ordinance.
- (gg) It shall be unlawful for any Licensee to sell alcoholic or malt beverages on the streets or sidewalks, or elsewhere, outside of the building, premises, or place of business licensed for such sale, except for temporary events specifically licensed for outside consumption. Businesses with licenses to dispense alcoholic beverages by the drink for consumption on the premises may serve such beverages only within the confines of the licensed building structure; provided however, that any business with such license which has an approved outside patio area may serve alcoholic beverages in the patio area. Sale or dispensing of alcoholic beverages to persons through windows, doors, or other openings to sidewalks, parking lots, or to any other area outside the licensed premises, except for patios described above, is prohibited.
- (hh) It shall be unlawful for any Licensee to dispense or furnish or cause to be furnished or permit any person in his employ to furnish or dispense alcoholic beverages in any form to any person from the confines of a motor vehicle, when the vehicle is parked on any city street, alley, way or parking lot, except to make a delivery for subsequent consumption within licensed premises.
- (ii) Notwithstanding any provision of this Ordinance to the contrary, a nonprofit civic and cultural center approved as such by the City Clerk and/or qualified under Section 501 (c) (3) of the Internal Revenue Code serving alcohol and food for consumption on the premises as a Licensee shall be exempt from provisions of this Ordinance regarding server permits and the qualifications regarding wholesale and/or retail sales ratios.

**ARTICLE VI: REGULATIONS PERTAINING TO CERTAIN CLASSES OF LICENSES ONLY**

(a) Retail Beer and Wine Package Store.

- (1) Reserved.
- (2) Reserved.
- (3) Reserved.
- (4) Retail Malt Beverages and Wine by the Package (Class B and C) shall be permitted in food stores, grocery stores, supermarkets, convenience food stores and discount/general merchandise stores, and specialty stores.
- (5) Except as specifically provided for in paragraph (c) below concerning certain Wine Tastings and Article (IX) below concerning Growlers, the original retail containers of any Alcoholic Beverage sold by a Package store retail Licensee hereunder shall not be opened on the lot or Premises of the location licensed for the sale thereof.
- (6) Visibility of Premises from public street. No Licensee for the sale of Alcoholic Beverages by the Package shall operate under the license, unless the front entrance to the licensed Premises is clearly visible from the public street; provided, however, that this restriction shall not apply where the Licensee is a Motel, Hotel, Private Club, Country Club or is located in a shopping center or multiple-story business building.
- (7) Visibility into interior, lighting of Retail Package store. No screens, blinds, curtains, partitions, articles or things which shall prevent a clear view into the interior shall be permitted in the window or from the doors of any retail store for the sale of Alcoholic Beverages by the Package; and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each store shall be so lighted that the interior of the store is visible day and night.
- (8) Units of Malt Beverage regulated. The sale of single units of Malt Beverage in containers 16 ounce or greater is allowable. Any unit of Malt Beverage in a container of less than 16 ounces must be sold together in units of four or more.
- (9) Package store Class B and C licenses shall be revoked if gross sales of groceries and food products excluding sale of Malt Beverages and Wines fall below the sum of one thousand five hundred dollars (\$1500.00) monthly for three consecutive months. No Licensee under the terms of this Ordinance shall offer either free or at a reduced price Malt Beverages or Wine in conjunction with the sale of any food

item. Such sales shall be unlawful and cannot be counted in satisfying the sales requirement of this Ordinance.

- a. On or before the 15<sup>th</sup> day of November of each year, each applicant for a retail license for Package sales renewal shall furnish to the City Clerk for the months of August, September and October of the then current calendar year an affidavit showing the gross sale of groceries and food products, excluding sale of Malt Beverages and Wines, the gross sales of Malt Beverages and Wines, and the gross sale of other merchandise for the preceding month. This affidavit shall be on a form furnished by said Clerk. And attached to this affidavit shall be a copy of the Georgia Sales and Use report for the same period. These reports shall remain confidential. The City Manager or City Council at any time during the year may make special requests of any one or all Licensees under the terms of this Ordinance requiring them to submit either audited or unaudited reports, affidavits, or such other materials as may be necessary to ensure compliance by the Licensee with the terms of this Ordinance. These reports may be requested for any month or series of months deemed necessary by the requesting official.

(10) Reserved.

(b) By the drink sales for consumption on the Premises; temporary license for consumption and/or package sales; affidavit requirements and other regulations

(1) Extensions of sales areas. Any Licensee for the sale of Malt Beverages and/or Wine for the consumption on the Premises or Distilled Spirits by the drink shall be authorized to extend the area utilized by such Licensee to an adjoining patio or deck area properly permitted by the City Clerk upon advice by the City Code Enforcement Officer and Planning Director and having received a certificate of occupancy, or expansion on the same lot of record, so long as the business operation is under the same business management and licensed area under the same ownership. No Licensee shall offer for sale food or alcohol except in areas permitted by the building official in writing. Occupancy of each sales area shall be defined on the face of each license. Exceeding said occupancy limit shall be a violation of this Ordinance.

(2) Temporary license for bona-fide non-profit, tax-exempt organization a/k/a Temporary Special Event License. Upon the filing of an application as required by the City Clerk and payment of a fee of \$100.00 per day by a bona-fide non-profit, tax-exempt organization, the City Clerk may issue a Special Permit authorizing the organization to conduct a wine tasting event or to sell Alcoholic Beverages for consumption or by the package for a period not to exceed three consecutive days.

- a. No more than five permits may be issued to an organization in any one calendar year pursuant to this paragraph.

- b. Permits issued pursuant to this paragraph shall be valid only for the place specified in the permit. No permit may be issued unless the sale is lawful under the zoning Ordinances of the City in the zone for which the permit is issued. The zoning restrictions and distance restrictions contained in Article V(c) shall apply.
  - c. Proof of such non-profit, tax-exempt status, such as a determination from the Internal Revenue Service that the organization is exempt under Section 501-C of the Internal Revenue Code must be provided.
  - d. The special event should be noticed to the Lumpkin County Sheriff's Department for approval of any necessary crowd control and security measures.
  - e. The special event must receive approval from the City Council on traffic control measures and such other regulations of the City of Dahlonega as applicable.
  - f. The Premises at which the special event is to take place must be approved by the City Council.
  - g. Any employee or volunteer of the special event Licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing Alcoholic Beverages shall not be required to obtain a Pouring Permit for the special event.
  - h. The City Council or its designee may immediately revoke any temporary license for a special event if continued Alcohol sales may endanger the health, welfare or safety of the public.
  - i. As a condition on the issuance of a temporary special event license, the Licensee may be required to provide insurance satisfactory to the city and/or to indemnify and hold the City of Dahlonega harmless from claims, demand or cause of action that may arise from activities associated with the special event.
- (3) Monthly affidavit and ratio requirements: On or before the 25<sup>th</sup> of each month each holder of a retail license to sell by the drink for consumption on the Premises shall furnish to the City Clerk a monthly affidavit for the preceding month (the month prior to the month in which the affidavit is filed) which shall use Gross Purchases for the wholesale price that the Licensee paid for the purchase of food (including nonalcoholic beverages) and the wholesale price paid for the purchase of Alcoholic Beverages to calculate the ratio of food to Alcoholic Beverages purchased by the Licensee's establishment. The Licensee is required to maintain a ratio of 50

percent or greater of Gross Purchases of wholesale food to wholesale alcohol purchases. Via the same affidavit the Licensee is also required to show that its primary sales (50% or more) are derived from the sale of food items (meals) prepared on the Premises of the Licensee. This affidavit shall be on a form furnished by the City Clerk. Attached to this affidavit shall be a copy of the Georgia Sales and Use report for the same period and such other items as set forth as requirements on the form provided by the City Clerk. These affidavits shall remain confidential subject only to the requirements of the Georgia Open Records Act. The City Clerk at any time during the year may make special requests of any one or all Licensees under the terms of this Ordinance requiring them to submit either audited or unaudited reports, affidavits, receipts, invoices or such other materials as may be necessary to ensure compliance by the Licensee with the terms of this Ordinance. These reports may be requested for any month or series of months deemed necessary by the requesting official. Affidavits shall be reviewed quarterly. The failure of the Licensee to maintain either of the required ratios for one quarter shall result in a warning. The failure of the Licensee to maintain either of the ratios for two consecutive quarters shall be grounds for nonjudicial sanctions revocation, suspension, probation, fines and other penalties as determined by the Administrative Hearing Officer.

- (4) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers. Additionally, notwithstanding any other contrary provision of law, any Licensee licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the Licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

(c) Open Area and Patio Sales

- (1) Alcoholic Beverage sales can be made by a licensed consumption on Premises establishment in a patio/open area type environment if the establishment has been approved to do so by the City Council and building official in compliance with any and all other regulations of the City regarding outdoor sales provided, however, that sales of Distilled Spirits, Wines and Fortified Wines must be in glass containers only. Beer and Malt Beverages may be sold in either glass containers or predominantly clear/translucent plastic containers.
  - (2) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed Premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the Licensee's knowledge.
  - (3) The height of such structure shall be a minimum of three-and-one-half feet (3½ feet) above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the City's Code Enforcement Officer, City Clerk and the Lumpkin County Fire Department as required by governing regulations or codes.
  - (4) The only exit from this area is to be through the licensed establishment's main Premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
  - (5) If a Licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Council. Interior type patio/open sales area must also meet the requirements of the City's development and fire codes.
  - (6) Nothing contained in this section shall prohibit a Hotel or Motel with a consumption on the Premises license from making sales and allowing consumption of Alcoholic Beverages in rooms rented by hotel guests, or in ballrooms, meeting rooms, reception rooms, or patio areas of such Hotel or Motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such Hotel or Motel. "Patio areas", as that term is used in this subsection, do not have to conform to the standards in this section.
- (d) Rental of licensed Premises for private functions.  
Class D, E, and F Licensees are permitted to rent the licensed Premises for private functions which have been scheduled in advance; provided that the Licensee, its agents, Managers, and employees, shall retain complete control over the licensed Premises and over selling, serving, or furnishing Alcoholic Beverages during the private function to the same extent required as if the function were open to the public. Nothing in this paragraph shall be deemed to waive any provisions of this Ordinance or state law governing the sale of Alcoholic Beverages on the licensed Premises. The licensed Premises shall remain open to all agents of the state, Lumpkin County and City of Dahlonega for law enforcement and

inspection purposes during such private functions. No doors to the licensed Premises shall be locked preventing egress or ingress during such functions. Nothing in this paragraph shall be deemed to waive the prohibition governing selling, furnishing, or delivering Alcoholic Beverages to underage persons by any person within the licensed Premises.

## **ARTICLE VII: OFF PREMISES ALCOHOL CATERING**

- (a) Permit requirements for Resident Alcohol caterers:
- (1) Any Licensee (hereinafter “Resident alcohol caterer”) who possesses a valid license from the City of Dahlongega to sell or otherwise dispense Malt Beverages, Wine or Distilled Spirits by the drink at a fixed location within the City may apply for an off-Premises permit that permits Alcohol sales at authorized catered events or functions.
  - (2) Each off-Premises Alcoholic Beverage catering permit, authorized herein, shall be valid only for the event for which the permit is issued. The fee for permits and administrative fees due upon application for a permit shall be set by resolution of the city council, and this fee amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.
  - (3) It shall be unlawful for any Person to engage in, carry on, or conduct the sale or distribution of Alcoholic Beverages off-Premises and in connection with a catered event or function without first having obtained a permit as provided herein.
- (b) Permit requirements for nonresident caterers:
- (1) A nonresident Alcoholic Beverage caterer (hereinafter “nonresident Alcohol caterer” or “Alcoholic Beverage caterer”) shall submit an application for an off-Premises Alcoholic Beverage catering permit to the City. The fee for each such permit shall be \$50.00 as authorized by O.C.G.A. § 3-11-3 Nonresident caterer shall mean any Alcoholic Beverage caterer who holds a valid license which was issued by a locality other than the City of Dahlongega to sell or distribute Distilled Spirits, Malt Beverages or Wine by the drink.
  - (2) An application for a Permit shall include the name of the nonresident caterer, a copy of the caterer’s Alcoholic Beverage license, the date, address, time, and name of the event and the quantity and type of Alcoholic Beverages to be transported from the nonresident caterer’s primary location to the location of the authorized catered event or function.
  - (3) The original Permit shall be kept in the vehicle transporting the Alcoholic Beverages to the catered event or function.
  - (4) It shall be unlawful for a Licensed Alcoholic Beverage Caterer to distribute, sell, or otherwise dispense Alcoholic Beverages in the City of Dahlongega except as specifically authorized by the Permit.



- (c) Alcoholic Beverage caterer regulated.  
A Licensed Alcoholic Beverage Caterer holding a valid off Premises permit may sell or otherwise dispense only that which is authorized by his Alcoholic Beverage license. For example, if the Alcoholic Beverage caterer possesses a valid license to sell Malt Beverages, he may sell or otherwise dispense only Malt Beverages at the authorized catered event or function.
- (d) Sunday sales.  
An Alcoholic Beverage caterer wishing to cater an event or function on Sunday must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of Alcoholic Beverages on Sunday.
- (e) Excise taxes.  
Excise taxes are imposed upon the sale of Alcoholic Beverages by Resident caterers as provided in Article XII.
- (f) Excise taxes – continued.  
Excise taxes are imposed upon the total of individual Alcoholic Beverage drinks served by a nonresident caterer in the amounts set forth in Article XII and shall be paid within 30 days after the conclusion of the catered event or function.
- (g) Must be a Licensed Alcoholic Beverage Caterer.  
A nonresident caterer applicant must be a Licensed Alcoholic Beverage Caterer pursuant to O.C.G.A. § 3-11-1 et seq.
- (h) Required food service permits required.  
All applicants must hold all required food service permits required by the governing authorities, unless food is being provided by a separate food caterer not licensed for the sale of alcoholic beverages.
- (i) Must comply with Georgia DOR.  
All applicants must comply with the requirements of Georgia Department of Revenue regulation 560-2-13-.03, including but not limited to the following specific requirements:
- (1) Vehicles used by a Licensed Alcoholic Beverage Caterer for the transportation and delivery of Alcoholic Beverages in connection with an authorized catered event shall be marked only with the state license number. The lettering shall be two (2) inches high and one (1) inch wide on each side of the vehicle. No other working or advertisements relating to the caterings service shall be allowed.
  - (2) While transporting and delivering Alcoholic Beverages in connection with an authorized catered event, the Licensee or the employee of the Licensed Alcoholic Beverage Caterer shall have in his or her possession:
    - (a) A copy of the caterer’s valid state Alcoholic Beverage License.

- (b) A copy of the caterer’s valid local Alcoholic Beverage License.
  - (c) A copy of the caterer’s valid Off Premises Event Permit from the City of Dahlonega.
  - (d) The Alcoholic Beverage Catering Quantity/Destination report.
- (3) Delivery of all Alcoholic Beverages by a Licensee to an authorized catered event must be made in unbroken containers.
- (4) The serving of all Alcoholic Beverages at the authorized catered event must be by the drink.
- (j) Applying for an Off Premises Alcohol Event Permit.  
 Off Premises Alcohol Event Permits are valid only for the event for which the Permit is issued. All applicants for an Off Premises Alcohol Event Permit must:
- (1) Submit a completed application provided by the City Clerk.
  - (2) Pay the required Application and Permit fees.
- (k) Permitted Activities.
- Only Licensed Alcoholic Beverage Caterers who hold a valid event specific Permit are authorized to sell or dispense Alcoholic Beverages at an authorized Alcohol catered event. Licensed Alcoholic Beverage Caterers who hold a valid event specific Permit are authorized to engage in, carry on or conduct the distribution of Alcoholic Beverages under the following conditions:
- (1) The distribution of Alcoholic Beverages is in connection with an “authorized catered event” for which an “Off Premises Alcoholic Beverage Catering Permit” has been granted authorizing said event.
  - (2) Caterers may sell and dispense only that type of Alcoholic Beverage authorized by the caterer’s Alcoholic Beverage license.
  - (3) Caterers shall comply with the provisions of O.C.G.A. § 3-3-4(e).
  - (4) If the caterer desires to provide Alcohol on a Sunday, it must be licensed for Sunday Sales.
  - (5) The licensed and properly Permitted caterer complies with the requirements of O.C.G.A. Title 2, Chapter 11.
  - (6) The licensed and properly permitted caterer complies with all other requirements of this Ordinance that are not in conflict with the provisions of this Article VII.
- (l) Private Events.  
 For events where Alcoholic Beverages are furnished by the host, which are not open to the public and at which no admittance fee, cup fee or by the drink fee is required, the event holder shall be exempt from the requirements of this Ordinance. However, if Alcoholic

Beverages are to be provided at such an event by a caterer, then the requirements of this Ordinance must be met.

(m) Eligibility for Issuance of on Off Premises Alcohol Event Permit.

An Off Premises Alcohol Event Permit may be issued for a period not to exceed three consecutive days at any one time regardless of State regulations to any Person, firm or corporation holding a valid Alcoholic Beverage License for Consumption on the Premises in the City of Dahlonega or any Licensed Alcoholic Beverage Caterer pursuant to O.C.G.A. § 3-11-1 et seq. The Person, firm or corporation must make application and pay the fees that may be required by the Ordinances which govern Alcoholic Beverage Licensing and Special Events Permits within the City of Dahlonega and shall be required to comply with all the general Ordinances and the licensing and regulations for a consumption on the Premises establishment with the exception of the full service kitchen requirement.

(n) Authorized events must be noticed.

The authorized catered event should be noticed to and receive approval from the following:

(1) The location at which the authorized catered event is to take place must be properly zoned and approved by the City of Dahlonega Planning and Zoning Administrator. The City of Dahlonega Planning and Zoning Administrator may require further approval from the Lumpkin County Sheriff's Department and/or Fire Marshal for any necessary code or public safety measures.

(2) The permits for the authorized catered event are to be issued by the City Clerk.

(o) Pouring Permit not required.

Any employee or volunteer of the Permit holder, working the authorized catered event in any position dispensing, selling, serving, taking orders or mixing Alcoholic Beverages shall not be required to obtain a Pouring Permit for the authorized catered event.

(p) Revocation of Off Premises Permit.

The City Council or its designee may immediately revoke any Off Premises Permit for an authorized catered event if continued Alcohol sales endanger the health, welfare or safety of the public.

(q) Insurance may be required.

As a condition on the issuance of the Off Premises Alcoholic Beverage Catering Permit, the Licensee may be required to provide insurance satisfactory to the City and/or to indemnify and hold the City of Dahlonega harmless from claims, demand or cause of action that may arise from activities associated with the authorized catered event.

(r) Subsequent applications.

Notwithstanding the foregoing, any subsequent application by the same applicant for substantially the same event which has previously been reviewed and approved by the City based on the criteria in Paragraphs (m) through (q) above shall be eligible for immediate issuance by the City Clerk.

**ARTICLE VIII: EMPLOYMENT RESTRICTIONS – POURING PERMITS (AKA SERVER PERMITS)**

The following regulations shall apply to all Class B, C, D, E, and F Licensees who may be serving, mixing, or pouring Alcohol by the drink or as tasting samples:

- (a) Violation. It shall be a violation of this Ordinance for the Licensee as well as for the employee to mix, dispense or serve alcohol in a licensed alcohol establishment without the proper Pouring Permit. Serving alcohol without a Pouring Permit shall be punished as provided in Article XIII of this Ordinance.
- (b) Employment Restrictions.  
No Person shall be employed to pour, dispense, transport, mix or serve Alcoholic Beverages, or serve in any managerial position by an establishment holding a Class B Ancillary Growler Permit, Class C holding an Ancillary Wine Tasting Permit, Class D, E, or F license until such Person has been cleared by the City Code Enforcement Officers or other designee of the City Council or City Manager indicating that the Person is eligible for such employment as per the minimum requirements for an applicant of a City of Dahlonega Pouring Permit.
- (c) Not applicable to busboy(s), cook(s), or dishwasher(s).  
This section requirement to acquire a Pouring Permit shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s) and who do not come in contact with alcohol on the license Premises.
- (d) Requirements for application.  
No Pouring Permit shall be issued until such time as a signed application has been filed with the City Clerk or such department's designee and upon payment of a fee that shall be established by the City Council and a search of the criminal record of the applicant completed. Fingerprinting of the applicant for a Pouring Permit shall not be required if a valid driver's license is provided to the City. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the Person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of such sensitive information, the same shall only be produced for public inspection pursuant to the Open Records Act of the State of Georgia.
- (e) Procedure for acceptance and denial.  
The Code Enforcement Officer or a designee shall have a complete and exhaustive search made relative to any criminal record of the Person applying for the permit. If there is no record of a violation of this Ordinance's standards, the Code Enforcement Officer or a designee shall issue a permit to the Person, by mail, stating that the Person is eligible for employment. If it is found that the Person is not eligible for employment, the Code Enforcement Officer or other designee of the City Council shall notify the Person, in writing, that they are not eligible for employment, the cause of such denial and their right

to appeal for hearing before the Administrative Hearing Officer with proper notice and an opportunity to be heard.

(f) Violations which cause denial of a Pouring Permit.

No Person shall be granted a Pouring Permit unless it appears to the satisfaction of the Code Enforcement Officer or a designee that such Person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of Alcoholic Beverages, including the sale or transfer of Alcoholic beverages to minors in a manner contrary to law, within a period of five years of the date of conviction. (The applicant must have been released from parole or probation.) No Person shall be granted a Pouring Permit who has been convicted, pled guilty or entered a plea of nolo contendere to any federal or state felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this Ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which a Person whose sentence was entered under the Georgia First Offender Act, as amended or was granted a conditional discharge. Except, however, that any such offense shall not be ignored if the Person violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the Person had previously been sentenced as a first offender or was ultimately not granted a conditional discharge.

(g) Duration of validity.

An Alcohol Pouring Permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (l) below, the Alcohol Pouring Permit must be in the possession of the employee while the Pouring Permit holder is working and must be available for inspection by members of the Sheriff's department or the City Council's staff, City Code Enforcement or other parties designated by the City Manager. After application for the Pouring Permit is completed with the City, the employee may immediately commence work on a temporary basis provided the employee retains the receipt for the permit on his Person at all times at the Premises for which the Alcohol license has been issued, and thereafter if a permit is issued, must maintain on his Person at the Premises the actual Pouring Permit.

(h) Falsifying, concealing or covering up information.

No Person shall be issued a permit if it is determined that the Person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the sheriff's department for an Alcoholic Beverage Pouring Permit under this section. If it is determined that a Person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.

(i) Administrative error.

All permits issued through administrative error can be terminated and seized by the City Clerk or a designee or the designee of the City Council.

- (j) Replacement permits.  
Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charged for Alcohol Pouring Permits. After 30 days of original application date, a new application and fee must be submitted.
- (k) Pouring Permits are property of the City of Dahlonega.  
All permits issued under this Ordinance remain the property of the City of Dahlonega and shall be produced for inspection upon the demand Clerk or the Sheriff's Department as provided elsewhere herein. Such permits remain as the property of the City of Dahlonega.
- (l) Licensees required to inspect and verify Pouring Permits.  
No Licensee shall allow any employee or Manager required to hold a permit to work on the Premises unless the employee or Manager has in their possession a current valid City of Dahlonega Pouring Permit. For new employees, a receipt issued by the City Clerk may be used for a maximum of 30 days from the date of its issue. Licensees are required by this Ordinance to inspect and verify that each employee required to do so has in their possession a valid current Alcohol Pouring Permit.
- (m) Licensee requirements to file with the City Clerk.  
It shall be the duty of all Persons holding any license to sell Alcoholic Beverages to file with the City Clerk or a designee the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually during the month of June and again during the month of December.
- (n) Pouring Permit fee charged.  
An annual Pouring Permit fee of \$25.00 shall be charged.
- (o) Pouring Permits are issued to the individual.  
The permit issued under this section shall be issued to individuals only regardless of who pays the compensation to the City for its issuance and may be used at any employer licensed by the City until said license is revoked, suspended, terminated, or expires.
- (p) Suspension or Revocation of Pouring Permit.  
Pouring Permits may be suspended or revoked and other penalties assessed after notice and hearing before the Administrative Hearing Officer as identified and described elsewhere herein should the holder of the Pouring Permit be determined to have violated any term of this Ordinance.

## ARTICLE IX: GROWLERS

- (a) Ancillary Growler License.

Any applicant for or holder of a valid Class B license in the City of Dahlonega shall also be eligible for an Ancillary Growler License upon approval of the Class B license and payment of an additional annual regulatory fee in the amount stated in Article II(c)(6). The regulatory fee shall be paid upon original application and upon each renewal application and shall be in addition to any other fees associated with the applicant's mandatory Primary License.
- (b) Pouring Permit required.

Any employee of the Licensee filling a Growler or handling a Growler after filled must have a valid City of Dahlonega Pouring Permit issued by the City. See Article (VIII) for complete information regarding City of Dahlonega Pouring Permits.
- (c) Kegs.

Growlers may only be filled with Malt Beverages or craft beers from kegs procured from duly licensed Wholesalers.
- (d) Licensee must comply with sanitation regulations.

It shall be the responsibility of the individual or entity filling the Growler to sanitize such Growler prior to filling. The Licensee must comply with Georgia Department of Agriculture's General Rules 40-7-1-.40 requiring a "contamination free" transfer process for beverages and the use of washed, rinsed and sanitized Growler fill tubes, which must be cleaned between each use and must comply with the Georgia Department of Agriculture Best Management Practices for Growler Refilling.
- (e) Approved Closures required.

Each Growler must be securely sealed and removed from the Premises in its original sealed condition utilizing an Approved Closure. At the time of the sale and/or refilling, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container and extend over the top of the Approved Closure forming a tamper evident seal that must be broken upon opening of the container. The adhesive band, strip, or sleeve shall bear the name and address of the business filling the Growler and the contents of the container must be displayed prominently on the container.
- (f) Packaging and labeling of Alcoholic Malt Beverages.

The Licensee must comply with all federal and state laws and regulations regarding packaging and labeling Alcoholic Malt Beverages. Each Growler filled with a Malt Beverage or craft beer must contain the following warning which may be printed on the paper or plastic adhesive band, strip or sleeve that is applied to the container after filling or which may be affixed separately to the container on a preprinted label as follows:

**"GOVERNMENT WARNING:** (1) According to the Surgeon General, women should not drink Alcoholic Beverages during pregnancy because of the risk of birth defects. (2) Consumption of Alcoholic Beverages impairs your ability to drive a car or operate machinery, and may cause health problems."

(g) Samples.

Establishments licensed to fill Growlers shall be authorized to offer without charge, samples of Malt Beverage or craft beer to patrons over the age of twenty-one (21) years. Samples shall not exceed two (2) ounces in volume nor shall any one (1) individual be offered more than four (4) samples within a twenty-four-hour period. The person pouring the sample must hold a valid City of Dahlonega Pouring Permit. It shall be the responsibility of the Licensee and any employee of the Licensee prior to filling a Growler or supplying a sample to a patron to ensure the patron is of legal age to purchase and consume Alcohol.

(h) Filling a Growler regulations.

The filling of Growlers by means of a tapped keg when properly dispensed by a permitted employee of a licensed Retailer under the provisions of this Ordinance shall not constitute the breaking of a Package as contemplated by O.C.G.A. § 3-3-26 or any other provision of any Ordinance regulating the sale of Package beer and Wine in the City of Dahlonega. Every customer who purchases a Growler shall, at the time of the purchase, be provided written documentation by the Licensee regarding the open container laws of the State of Georgia.



**ARTICLE X: DIVE DEFINED; PROHIBITED; PENALTY FOR VIOLATION**

(a) Term defined.

As used in this section, the term "dive" shall mean any place or establishment where illegal drugs are found, possessed, kept or sold; or where any Person possesses or consumes any illegal or unlicensed Alcoholic Beverage or possesses or uses any illegal drug; or where any Person commits any illegal sexual act; or where any Person engages in illegal gambling activities.

(b) Prohibition.

It shall be unlawful for any Person or organization or group of Persons to have, operate or maintain any place or establishment defined as a dive.

## ARTICLE XI: ALCOHOL PROMOTIONS; PRICING OF ALCOHOLIC BEVERAGES

(a) All Alcoholic Beverages included.

This section shall be construed to cover, include and apply to every type of Alcoholic Beverage licensed to be sold in City of Dahlonga, including Wine, Malt Beverages and Distilled Spirits.

(b) Unlawful practices.

Except at private functions not open to the public that meet the requirements of Article VI(d) of this Ordinance, it shall be unlawful for any Class D, E, or F Licensee or employee or agent of such Licensee to engage in or allow any of the following practices in connection with the sale or other disposition of Alcoholic Beverages:

- (1) Offer or deliver any free Alcoholic Beverage to the general public.
- (2) Sell, offer to sell, or deliver to any Person or group of Persons any Alcoholic Beverage at a price less than \$1.00 except pursuant to other provisions of this Ordinance allowing free sample tastings.
- (3) Sell, offer to sell, or deliver to any Person or group of Persons two or more Alcoholic Beverages during any set period of time at a fixed price.
- (4) Sell, offer to sell, or deliver Alcoholic Beverages to any Person or group of Persons at reduced prices less than the normal retail price of the establishment for that Alcoholic Beverage charged the general public on that day.
- (5) Increase the volume of Alcohol contained in a drink without increasing proportionately the price regularly charged for such Alcoholic Beverage.
- (6) Sell two or more Alcoholic Beverages for a price substantially the same as is charged for one such Alcoholic Beverage.
- (7) Require or encourage the purchase of a second or subsequent Alcoholic Beverage at the same time another Alcoholic Beverage is purchased.

(c) No advertisement or promotion of prohibited practices allowed.

There shall be no advertisement or promotion in any way, whether within or without the licensed Premises, of any of the practices prohibited under this section.

(d) Certain promotions allowed.

No provision of this section shall be construed to prohibit Licensees from offering entertainment at any time; or to prohibit the sale or delivery of Wine by bottle or carafe when sold with meals or to more than one Person, or to prohibit any Hotel or Motel containing an Eating Establishment/Restaurant as defined under the terms of this Ordinance from offering room services to registered guests.

## ARTICLE XII: EXCISE TAXES

- (a) Per drink excise tax.  
Every purchaser of Distilled Spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the Licensee licensed under this Ordinance, and such Licensee shall remit the same to the City on or before the twentieth day of the succeeding month along with a summary of the Licensee's gross sales derived from the sale of Distilled Spirits by the drink, excluding Malt Beverage. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon to the same extent as required of cash sales. Each Licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. §48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment. It shall be the duty of every such Licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every Licensee to keep and preserve such records for a period of three years.
- (b) Package excise tax.  
Said excise tax shall be paid by Persons selling Malt Beverages and Wines, Retail Package and/or consumption on the Premises Licensees, or by their respective Wholesalers as their designated agents, by the 20th day of each month following the month in which deliveries were made. Copies of Summaries of Sales and State Form ATT-122 shall be furnished to the City Clerk with each monthly payment. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or Licensee liable to prosecution for perjury under the laws of the State of Georgia.
- (c) Late Penalty.  
Excise taxes received in the business license department after the 20th day of the month shall be charged a ten percent penalty.
- (d) Audit may be required.  
If the City Council deems it necessary to conduct an audit of the records and books of the Licensee, he/she will notify the Licensee of the date, time and place of the audit.
- (e) Excise tax and bond requirement on Wholesalers.
- (1) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter that shall be paid to the governing authority on all Distilled Spirits and Wine sold by Wholesalers to Retailers in the City of Dahlonega. Such tax shall be paid to the designee of the City Council by the Wholesale Distributors on all Distilled Spirits and Wine sold to the Licensees for the sale of Distilled Spirits and Wine in the City of Dahlonega as follows: each Wholesaler selling, shipping, or in any way delivering Distilled Spirits or Wine to any Licensees hereunder, shall

collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each Licensee on or before the tenth day of the month following. Excise taxes received in the business license department after the twentieth day of the month shall be charged a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter shall be prorated so that all containers of Distilled Spirits and Wine shall be taxed on the basis of twenty-two cents (\$0.22) cents per liter. It shall be unlawful and a violation of this Ordinance for any Wholesaler to sell, ship or deliver in any manner any Distilled Spirits or Wine to a Retail Dealer without collecting said tax. It shall be unlawful and a violation of this Ordinance for any Retail Dealer to possess, own, hold, store, display or sell any Distilled Spirits or Wine on which such tax has not been paid.

- (2) There is hereby levied an excise tax on all Malt Beverages sold by Wholesalers to Retailers in the City of Dahlonge at the following rates:
  - i. Where malt beverages, commonly known as tap or draft beer are sold in or from a barrel or bulk container, a tax of six dollars (\$6.00) on each container sold containing not more than fifteen and one-half (15 ½) gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons;
  - ii. Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

Table 4 Excise taxes on various sized containers

SIZE OF CONTAINER	TAX PER CONTAINER
7 OUNCES	0.0291
8 OUNCES	0.0333
12 OUNCES	0.0500
14 OUNCES	0.0583
16 OUNCES	0.0666
32 OUNCES	0.1333
½ HYBRID RESTAURANT REL (15 ½ GALLONS)	6.0000
1 HYBRID RESTAURANT REL (31 GALLONS)	12.0000

All provisions as to excise tax in this article shall apply to this tax on Malt Beverages except the tax rate which is set out in this subsection. (state law says excise taxes are due on malt beverages on the 10<sup>th</sup> of the month).

- (3) A Wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the City. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with

the terms of this article and the payment of all sums as required by the provisions herein.

- (4) Any Wholesale Dealer in Malt Beverages, Wines, or Distilled Spirits licensed by the State of Georgia and maintaining a permanent place of business within Dahlonega will be granted a license upon payment of the annual fee set in Article II(c) of this Ordinance. All others Wholesalers shall pay fees of \$100.00 annually to the City.

### **ARTICLE XIII: COMPLIANCE; VIOLATIONS; PENALTIES; HEARINGS**

(a) Nonjudicial sanctions for violation of this Ordinance.

Any Person who owns, manages, operates, or is otherwise responsible for an establishment selling alcoholic beverages and licensed under the provisions of this Ordinance who by his own actions or by the actions of employees or agents is in violation of the terms of this Ordinance, or who directs, consents to, permits, or acquiesces in such violation either directly or indirectly shall, by such conduct, subject any license issued under this Ordinance to suspension, imposition of monetary penalties, revocation and/or probation, or any combination thereof. Monetary penalties in the form of civil fines of up to \$1000.00 may be imposed. Nonjudicial sanctions shall be administered by citation and subpoena to the Municipal Court of Dahlonge, the Judge of said court acting as the Administrative Hearing Officer for purposes of hearing all citations for violations of this Ordinance and the administering of nonjudicial sanctions. The administrative hearing officer shall consider the following factors in reviewing an alleged violation if a violation is found to exist: (a) The gravity of the violation; (b) Any previous violations within a five-year period; (c) The costs to City of Dahlonge related to compliance or enforcement efforts undertaken by City of Dahlonge in pursuing the case; (d) Actions of the Licensee, its employees, subcontractors or agents in connection with the violation and (e) Due cause as set forth in paragraph "b" below. No license shall be renewed if any civil fines imposed pursuant to this section have not been paid by the Licensee prior to renewal. For purposes of administering and enforcing this Ordinance, any act committed by an employee, agent or representative of a Licensee shall be deemed to be an act of such Licensee provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such Licensee did not know, assist or aide in such occurrence, or in the exercise of due diligence could not have discovered or prevented such activity. A nonjudicial sanction shall be considered a conviction when the word "Conviction" is used elsewhere herein. "Conviction" shall also have its usual and normal meaning of an adjudication adverse to a defendant or a plea of guilty in a court of competent jurisdiction.

(b) "Due cause," for purposes of the imposition of Nonjudicial Sanctions shall include, but not be limited to:

- (1) Conviction (to include a plea of guilty or nolo contendere) by local, state or federal authorities of the Licensee including persons holding an ownership interest in the Licensee or the Manager of the Licensee for any or misdemeanor involving moral turpitude, or any felony involving alcohol beverages, gambling, or tax law violations.
- (2) Conviction (to include a plea of guilty or nolo contender) by local, state or federal authorities of any employee of the Licensee for violation of any law or Ordinance regulating alcoholic beverages, including but not limited to, violation by such employee of any of the standards of this Ordinance;

- (3) Any violation of this Ordinance including but not limited to violations upon the Licensed Premises or by persons acting on behalf of the Licensee with respect to the violation;
  - (4) Suspension or revocation of any state license required as condition for the possession, sale or distribution of beverage alcohol;
  - (5) Material falsification of any fact given in application for a License issued under this chapter or bearing upon the Licensee's qualification therefor, or any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this Ordinance;
  - (6) The Licensed Business fails to properly account for, file, report and/or maintain any records and/or remit or pay any renewal license fee imposed, sales taxes, or excise taxes required under the City Ordinances.
  - (7) Conduct of the Licensed Business in such a manner as to require excessive enforcement monitoring or response to preserve the public order and secure compliance with federal, state and local laws and Ordinances regulating alcoholic beverages.
- (c) Actions to suspend, revoke, or place a license on probation and/or for nonjudicial sanctions shall be commenced by the City Clerk by giving written notice to the Licensee, either by certified mail, return receipt requested, or by personal service upon Licensee or his/her agent at the licensed location or as may be shown on the records of the Georgia Secretary of State stating the grounds therefor, and the date, time and place such matter will be heard by the Administrative Hearing Officer. Notice shall be served at least ten (10) days prior to the date of the hearing. Any Licensee requiring subpoenas to compel the attendance of City witnesses or documents at the hearing shall file a written request with the City Clerk at least five (5) days prior to the hearing. Hearings may be continued for good cause only.
  - (d) Hearings shall only be as formal as necessary to preserve order and shall be compatible with the principles of justice. The City Attorney or his designee shall present the City's case and shall bear the burden of proving by a preponderance of the evidence that due cause exists to suspend, revoke or probate the license or to assess fines or other penalties. The Licensee may be represented by legal counsel, may confront and cross-examine witnesses, and shall have the right to call witnesses and present evidence in his/her behalf. A hearing record shall be maintained by the City; however, either party may arrange for transcription by a court reporter at his/her sole expense. Hearings shall be presided over by the Administrative Hearing Officer who shall preserve order and rule upon all matters of evidence. Irrelevant, immaterial and unduly repetitious evidence shall be excluded.
  - (e) All final decisions to suspend, revoke, or place a Licensee on probation or to invoke fines or other penalties shall be made by the Administrative Hearing Officer, in writing, with

the reasons therefore stated. Notice of a final decision shall be given the Licensee within three (3) business days following the date of the hearing.

- (f) Appeals from an action by the Administrative Hearing Officer to revoke, suspend or probate a license pursuant to this chapter shall be by writ of certiorari to the Superior Court of Lumpkin County.

Ordinances and Regulations in conflict herewith are repealed as of the effective date hereof.

Adopted and Ordained this \_\_\_ day of \_\_\_\_\_, 2016.

Effective date: January 1, 2017 except for Article V (i) which shall take effect immediately.

By: \_\_\_\_\_  
Gary McCullough, Mayor

Attest: \_\_\_\_\_  
Kym Smith, City Clerk



## APPENDIX A

### CONDITIONS FOR ISSUANCE OF AN ANCILLARY WINE TASTING PERMIT

- (1) The applicant for an Ancillary Wine Tasting Permit must hold a valid current Wine only Package license.
- (2) No Wine tasting may be conducted on the Premises of any place of business licensed to sell Malt Beverages.
- (3) No permit to conduct a Wine tasting will be issued to conduct a Wine tasting on the Premises of a Wine store operating in connection with a licensed retail liquor or beer store.
- (4) Wine sampling shall be on limited occasions when a customer requests a sample of Wine offered for sale within the Premises, or in conjuncture with Wine education classes and sampling designed to promote Wine appreciation and education.
- (5) All Wines used for tasting purposes must have been purchased from a licensed state Wine Wholesaler/Distributor.
- (6) Wine tastings must comply with all laws and regulations otherwise pertaining to the sale and distribution of Alcoholic Beverages in the state.
- (7) All applicants and permit holders must comply with all state statutes and sections of this and other City of Dahlonega Ordinances concerning Alcoholic Beverages, including but not limited to those dealing with hours of operation, zoning, and distance requirements.
- (8) The holder of a Class C Wine-only license shall be eligible for an Ancillary Wine Tasting Permit.
- (9) The holder of a Class C Wine-only license with a Wine tasting permit is hereby exempted from the prohibition of Wine displays but they must still abide by Article VI(a)(9). (Sale of groceries and food product \$1500.00 for 3 consecutive months)
- (10) Wine tasting for customers shall only be conducted at a Wine counter area constituting no more than ten (10) percent of the entire floor area of the Premises.
- (11) Wine sampling for customers shall be limited to two (2) ounces or less.
- (12) Wine bottles shall be opened only by the Licensee or an employee, and samples shall only be poured by the Licensee and/or an employee with a valid Pouring Permit as issued by the City.
- (13) No open containers of Wine shall be removed from any building on the licensed Premises.
- (14) Not more than one time a week for a period of not to exceed two (2) consecutive hours, the holder of an ancillary Wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (15) Holders of an Ancillary Wine Tasting Permits shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- (16) Wine sampling and tasting is only permitted within the enclosed portion of the Premises.
- (17) All Managers and employees who will be serving samples must have a valid City of Dahlonega Pouring Permit as contained in Article VIII of this Ordinance.