

ORDINANCE NO. 2007-3

**AN ORDINANCE OF THE CITY OF DAHLONEGA IMPOSING AN EXCISE  
TAX ON THE SALE OF LIQUOR BY THE DRINK AND PROVIDING  
FOR THE ADMINISTRATION AND COLLECTION OF SUCH TAX**

BE IT ORDAINED BY THE CITY COUNCIL OF DAHLONEGA THAT:

Section 1. Definitions.

The following words, terms and phrases shall, for the purposes of this ordinance and except where the context clearly indicates a different meaning, be defined as follows:

CITY. The City of Dahlonega and, variously, the incorporated territory of Dahlonega, wherein the City government is empowered to impose this tax by OCGA Section 3-4-130.

CITY CLERK. The duly appointed City Clerk of the City or designee.

DUE DATE. The twentieth (20th) day after the close of the monthly period for which the tax is to be computed.

LICENSEE. Any person holding a liquor pouring license from the City.

MONTHLY PERIOD. The calendar months of any year.

PERSON. An individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States, the State of Georgia and any instrumentality of either thereof upon which the City is without power to impose the tax.

TAX. The sales tax on liquor by the drink imposed by this ordinance.

Section 2. Imposition; rate of tax.

There is hereby imposed, and there shall be paid, a tax of three percent (3%) on the sale of liquor by the drink in the City.

Section 3. Collection by licensee.

Every licensee shall collect a tax of three percent (3%) on the sale of liquor by the drink at his pouring outlet.

Section 4. Determination generally; returns; payments.

- (a) Due date of taxes. All amount of such taxes shall be due and payable to the City Clerk monthly on or before the twentieth (20th) day of every month next succeeding each respective monthly period.
- (b) Penalty and interest for failure to pay tax by due date. A specific penalty of fifteen percent (15%) is imposed for failure to pay any amount of tax when due and payable to the City. Delinquent amounts shall bear interest at the rate of one percent (1%) per month, or fraction thereof, until paid.
- (c) Return; time of filing; persons required to file; contents. On or before the twentieth (20th) day of the month following each monthly period, a return for the preceding monthly period shall be filed by every licensee with the City Clerk showing the gross sales of liquor by the drink and the amount of tax collected or otherwise due for the period, and such other information as may be required by the City Clerk.
- (d) Collection fee allowed licensees. Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," as now and hereafter amended.

Section 5. Deficiency determinations.

- (a) Recomputation of tax; authority to make; basis of recomputation. If the City Clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the City by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.
- (b) Penalty and interest for failure to pay tax. A specific penalty of fifteen percent (15%) is imposed upon the amount of any determination. Additionally, the amount of any determination shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the due date of taxes until the date of payment.
- (c) Notice of determination; service of. The City Clerk shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the licensee at his address as it appears in the records of the City. Service by mail is complete when delivered by certified mail with a receipt signed by addressee.
- (d) Time within which notice of deficiency determination to be mailed. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth (20th) day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

Section 6. Determination if no return made.

(a) Estimate of gross receipts. If any person fails to make a return, the City Clerk shall make an estimate of the amount of the gross receipts of the licensee from the sale of liquor by the drink, or as the case may be, of the amount of total such receipts in this City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City Clerk. Written notice shall be given in the manner prescribed in section 5(c).

(b) Penalty and interest for failure to pay tax. A specific penalty of fifteen percent (15%) is imposed upon the amount of any determination. Additionally, the amount of any determination shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the due date of taxes until the date of payment.

Section 7. Collection of tax by City.

(a) Action for delinquent tax; time for. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City Clerk may bring an action in a court of competent jurisdiction in the name of the City to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) Duty of successors or assignees of licensee to withhold tax from purchase money. If any licensee liable for any amount under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the City Clerk either a receipt reflecting full payment or a certificate stating that no amount is due.

(c) Liability for failure to withhold. If the purchaser of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(d) Credit for tax, penalty or interest paid more than once or erroneously or illegally collected. Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City, it may be offset by the City Clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Clerk, such person shall have three (3) years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the City Clerk, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid.

Section 8. Administration of ordinance; recordkeeping.

(a) Authority of City Clerk. The City Clerk shall administer and enforce the provisions of this ordinance for the collection of the tax.

(b) Records required from licensees, etc; form. Every licensee shall preserve, for a minimum of three (3) years, all records, receipts, invoices and such other documents as the City Clerk may prescribe, and in such form as he may require.

(c) Examination of records; audits. The City Clerk or any person authorized in writing by him may examine the books, papers, records, financial reports, inventory, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made, to ascertain and determine the amount required to be paid.

(d) Authority to require reports; contents. In administration of the provisions of this ordinance, the City Clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the sale of liquor by the drink. The reports shall be filed with the City Clerk when required by said official, and shall set forth the gross sales from the sale of liquor by the drink, the amount of tax collected thereon, or such other information as the City Clerk may prescribe.

Section 9. Violations.

Any person violating any of the provisions of this ordinance shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed one thousand (1,000) dollars, or imprisonment for a term not to exceed sixty (60) days. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee who fails to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the City Clerk, or who renders a false or fraudulent return, shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as aforesaid.

Section 10. Effective date.

This ordinance and the tax levied hereby shall become effective on the first (1st) day of the first (1st) month following its adoption.

Section 11. Repealer.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

IT IS SO ORDAINED THIS 12<sup>th</sup> DAY OF June 2007

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Attest: City Clerk