

**AN ORDINANCE TO PROVIDE FOR THE SALE, REGULATION AND CONTROL OF ALCOHOLIC BEVERAGES, PACKAGE SALES AND BY THE DRINK FOR CONSUMPTION ON THE PREMISES; TO PROVIDE AN APPLICATION PROCESS FOR LICENSE; TO PROVIDE REQUIREMENTS AND STANDARDS FOR LICENSURE; TO PROVIDE FOR RENEWAL; TO PROVIDE FOR SUSPENSION OR REVOCATION; TO PROVIDE PENALTIES FOR VIOLATIONS OF LAWS AND REGULATIONS; TO PROVIDE COORDINATION WITH EXISTING ALCOHOL BEVERAGE LICENSING PROVISIONS OF THE CITY OF ETON; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

2020-10

**ARTICLE I. - IN GENERAL**

Sec. 1.1 - Definitions.

All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. title 3) and State regulations, as amended, are adopted by this Ordinance. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adequate parking* means one parking space for each 200 square feet of customer service area within the premises of the applicant, but not less than five parking spaces. Such off-street parking shall have vehicular access to streets and shall be constructed of an all-weather surface. Where no parking space can reasonably be provided on the same lot, any public or private off-street parking lot may be utilized to fulfill such parking requirement, if the public or off-street parking lot is within 150 feet of the premises, and if the patrons of the licensee are allowed to use such lot. All parking regulations of Eton Zoning Ordinance, Article 9, must be met.

*Alcoholic Beverage* includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

*Applicant* means any person who files forms designated by the Clerk as an applicant for a license to sell alcoholic beverages either at retail or wholesale, deal in alcoholic beverages either at retail or wholesale or manufacture alcoholic beverages.

*Beer tasting flight* means a single service of malted beverages from which the ultimate consumer may sample for taste multiple products available from the microbrewery. Said flights shall be poured in either a sampling of four glass containers of six ounces each, or in the alternative, a sampling of six glass containers of four ounces each, in any alternative, the total volume of sampling not to exceed 24 ounces in the aggregate.

*Brown bagging* means the act of a patron or patrons entering any establishment providing food or entertainment in the normal course of business and bringing in and consuming the patrons' own alcoholic beverages.

*Business Location* means the location or premises or proposed location or premises where alcoholic beverages are proposed to be sold.

*Church* means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church but does not include a residence or place of business also used for religious purposes.

*City* means City of Eton, Georgia as referenced in this Ordinance.

*Clerk* shall mean the City Administrator, City Manager, City Clerk, or any designee of the preceding of the Mayor and Council of the City of Eton, Georgia.

*College* means only such state, county, city, church, or other colleges which teach the subjects commonly taught in the common colleges of this state.

*Crowler or Growler* means a container of 32 ounces or less containing a malt beverage poured from a tap on a cask or keg on site and securely sealed by the license holder or its employees, and sealed and sold on the licensed premises for off premises consumption by the consumer.

*Distance* means the distance as established in section 3.3 of this Ordinance.

*Distilled Spirits or liquor* means 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* means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sale from the sale of prepared meals or food.

*License* means the authorization by the Mayor and Council to engage in the sale of alcoholic beverages on the premises.

*Licensee* means a person, real or artificial, holding any class of license issued under this Ordinance.

*Local caterer or concessionaire* means a person whose principal business is to cater meals or other food items for functions located off the caterer's premises, who maintains a permanent office within the county and who meets the citizenship and residency requirements of section 3.5 of this Ordinance.

*Lounge* means a separate room connected with, a part of or adjacent to a restaurant, as defined in this section, or located in a hotel, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant and which serves alcoholic beverages by the drink.

*Malt Beverages* means any alcoholic beverage obtained by the fermentation of any infusion or decoration of barley, alt hops or any other similar product, or any combination of such products in water, containing not more than six (6) 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* means any maker, producer, or bottler of an alcoholic beverage.

*Micro-brewery* means a facility using traditional brewing practices to produce less than 5,000 barrels of malt beverage annually.

*Micro-distillery* means a facility using traditional distilling practices to produce less than 50,000 gallons of distilled spirits annually.

*Nonprofit civic organization* means an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

*Outlet Manager* shall mean the person who does or will manage or operate the alcohol beverage outlet on a day to day basis.

*Package store* means a geographic location within the city wherein a license may be issued for the sale of packaged alcoholic beverages in unbroken packages and where the sale of alcoholic beverages in unbroken packages comprises more than 50 percent of the licensee's annual gross sales and where the sale of nonalcoholic items is incidental to the business of the licensee at that location; package stores selling distilled spirits must be operated as a distinct business and cannot be operated in conjunction with or as a part of any other business.

*Person* means any individual or entity as defined in the Georgia Alcoholic Beverage Code, (O.C.G.A. tit. 3) and state regulations, as amended.

*Person underage* means any individual under the age of 21 years.

*Pour and pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

*Pouring outlet* means any place where distilled spirits or other alcoholic beverages are poured or proposed to be poured.

*Premises* means that definite, closed, or portioned-in locality, whether room, shop or building, wherein alcoholic beverages are sold, either by package or for consumption in such locality.

*Private club* means any nonprofit fraternal or veterans' association organized under the laws of the state, the United States of America, or any national organization which has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this Ordinance; has at least 75 regular dues-paying members; owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space has suitable kitchen and dining room space and equipment and is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary. As used in this subsection, the term "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for such person by its members at a prior annual meeting or by the governing body of the club out of the general revenue of the club and shall not include any commission on any profits from the sale of alcoholic beverages.

*Pub* means a pouring outlet, as defined in this section, which serves alcoholic beverages by the drink.

*Restaurant* means a business maintaining a fixed location for the sale and service of food and beverages to members of the general public in a dining room or premises with space to seat not less than 40 persons and serving such food and beverages from a sanitary kitchen within the premises. For the purposes of this definition, such business shall serve food and beverages not less than three hours per day or not less than four days per week.

*Retail sale* means selling or offering for sale alcoholic beverages to any member of the public.

*School* means only such state, county, city, church or educational building or other schools as teach the subjects commonly taught in the common schools and colleges of this state.

*Wholesale or wholesale dealer* shall mean any person who sells alcoholic beverages to other wholesale dealers or to retail dealers.

*Wine* means any alcoholic beverage containing not more than 21 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.

#### Sec. 1.2 - Purposes of Ordinance.

This Ordinance has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community.
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages to protect and preserve schools and churches.
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and
- (4) Protecting against the evils of concentration of ownership of retail outlets for alcoholic beverages or preventing undesirable persons from engaging in or having any interest in alcoholic beverages.

### Sec. 1.3 - Applicability.

The sections of this Ordinance and the license fees levied in this Ordinance shall apply to all persons residing or maintaining a place of business in the city or to any person bringing alcoholic beverages into the city for the purpose of sale, except those sales made by a salesperson upon order and delivery later.

### Sec. 1.4 - Compliance with Ordinance.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this Ordinance including, but not limited to, obtaining the appropriate alcoholic beverage license from the city.

### Sec. 1.5 - Laws and regulations adopted.

The state laws and regulations relating to the sale and distribution of alcoholic beverages in the state, as revised and promulgated by the general assembly and by the state revenue department and especially as they relate to wholesale and retail package sales and retail sales for consumption on the premises, are incorporated into and made a part of this Ordinance as if fully set out in this section.

### Sec. 1.6 - Penalties.

Any person violating any of the sections of this Ordinance or, who shall assist any dealer in alcoholic beverages in the City, to evade or avoid the payment of the fees and taxes provided for in this Ordinance shall be subject to having his license revoked or suspended by the Mayor and Council.

### Sec. 1.7 – Clerk powers and duties generally.

For the purposes of this Ordinance, the Clerk is vested with the following duties and powers:

- (1) *Initial applications.* To screen, verify, investigate and review all initial applications for licenses for the sale of alcoholic beverages, at wholesale and retail, by the package and by the drink, and to make recommendations to the Mayor and Council to grant or to deny licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink. The Clerk shall make a determination of all qualifications and requirements to ensure that the applicant meets the qualifications and requirements.
- (2) *Renewals.* To grant renewals if all qualifications and requirements are met by the current licensee and to investigate and hear reports and charges constituting probable cause not to renew licenses for the sale of alcoholic beverages at wholesale and retail, by the package and by the drink. To make recommendations to the Mayor and Council to deny renewals of licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink.
- (3) *Determinations of conduct or offenses requiring penalty, suspension, revocation, or combination thereof.* To schedule with the Mayor and Council hearings upon charges of the City to any alcohol beverage licensee as to the occurrence of conduct or an offense for which penalty, suspension, revocation or a combination thereof is provided under this Ordinance; to cause a record and transcript of such hearing to be made and kept; to take any of the actions as directed by the Mayor and Council.
- (4) *Modifications.* To recommend to the Mayor and Council modifications to this Ordinance and other City Ordinances and policies pertaining to the regulation, control, and taxing of alcoholic beverages.
- (5) *Rules.* To promulgate rules and regulations governing procedure before it.

Sec. 1.8 - Possession of unsealed containers.

It shall be unlawful for any person to possess any alcoholic beverage in an unsealed container on premises licensed for the sale of alcoholic beverages by the package, and it shall be unlawful for any licensee to permit possession of an alcoholic beverage in an unsealed container on the premises licensed for the sale of alcoholic beverages by the package.

Sec. 1.9 - Possession in public places.

- (a) Except as provided in subsection (b) of this section and section 6-10, it shall be unlawful for any person to drink, consume, transport, carry alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any city park, city maintained recreation facility, public parking lot or semi-public parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked by the public in conjunction with any business, enterprise, commercial establishment, office building or apartment building.
- (b) The following activities shall not be a violation of this section:
  - (1) Alcohol beverage by the drink sales within a special outdoor area as provided for in Section 1.10.
  - (2) Special Events as outlined in Eton Ordinance 2015-8.

Sec. 1.10 - Sidewalk cafes, open area and patio sales.

- (1) The consumption and/or sale of alcoholic beverages shall be allowed in sidewalk cafes and in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure no less than three feet (3') in height or more than three feet six inches (42 inches) to prevent ingress and egress by a person(s) except through a controlled access point and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its sidewalk cafe, open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress. In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic beverages to be carried from said premises to the designated area or vice versa by anyone but licensee or employees of licensee.
- (2) A minimum of four feet shall be provided at all times between the sidewalk café area and the curb or nearest obstacle on all streets to allow for continuous unobstructed pedestrian traffic on the sidewalk.
- (3) Permanent plantings, city owned waste receptacles, streetlight poles, and other permanent fixtures along the sidewalk must be considered when determining the boundaries set forth in a license/permit.
- (4) All tables and chairs shall be located totally within the limits of the divider.
- (4) No encroachment on public rights-of-way, other than as stated in this section, shall be allowed to exist.
- (5) All general provisions and clean community regulations of the refuse collection and disposal provisions are complied with and that the area is maintained in a clean, neat, and orderly manner at all times.

- (6) Sidewalk café operators shall indemnify and hold harmless the city and its officials and employees from claims and liability arising out of the use of a sidewalk café. The sidewalk café operator shall obtain insurance covering the use of a sidewalk café and name the city as an additional insured with respect to such insurance. The city shall prepare guidelines with respect to any indemnification and insurance requirements of sidewalk café operators.
- (7) All sidewalk cafés shall fully comply with all requirements of the Americans with Disabilities Act as currently existing or as may be hereafter amended.

Sec. 1.11 - Underage persons prohibited on premises.

No person who holds a license to sell malt beverages, wine, distilled spirits, or other alcoholic beverage shall allow any person underage to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by a parent or a legal guardian. However, this section shall not apply to a licensee whose annual sales of food and non-alcoholic beverages upon the premises comprise more than 50 percent of the licensee's annual gross sales and where the sales of alcoholic beverages are merely incidental to the business.

Sec. 1.12 - Sales to persons underage.

No licensee or any other person on a licensed premise shall sell alcoholic beverages to any person under the age of 21 years.

Sec. 1.13 - Purchase or possession by underage persons; misrepresentation of age.

It shall be unlawful for any person underage to purchase or possess any alcoholic beverage. It shall be unlawful for any person underage to misrepresent his age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverages.

Sec. 1.14 - Employees.

Except as otherwise provided by law:

- (1) No person issued a license under this Ordinance shall employ any person under 18 years of age in or about the premises where alcoholic beverages are sold, consumed or offered for sale to sell or deliver or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages; and
- (2) No person under 18 years of age shall sell, take orders for, or deliver or in any manner take part or assist in the sale, serving or delivery of alcoholic beverages.

Sec. 1.15 - Furnishing to underage persons.

It shall be unlawful for any person to buy distilled spirits or other alcoholic beverages and furnish them to a person underage, except as provided by law.

Sec. 1.16 - Hours and sale of alcoholic beverages by the package sales.

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages by the package may be sold only between the hours of:

Monday through Saturday: 8:00 a.m. to 2:00 a.m. on the following day

Sunday: 11:00 a.m. to Midnight (12:00 a.m.)

Alcoholic beverages by the package sales are allowed all days of the year including Christmas Day and Election days.

Alcoholic beverages shall not be sold within 250 feet of any polling place which such polling place established on primary or election days. (O.C.G.A. §3-3-20)

Sec. 1.17 - Hours and sale of alcoholic beverages for consumption on the premises.

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages for consumption may be sold only between the hours of:

Monday through Saturday: 8:00 a.m. to 2:00 a.m. on the following day

Sunday: 11:00 a.m. to Midnight (12:00 a.m.)

Alcoholic beverages shall not be sold within 250 feet of any polling place which such polling place established on primary or election days. (O.C.G.A. §3-3-20)

Sec. 1.18 - Service after hours at pouring outlets.

No alcoholic beverages shall be mixed or sold at pouring outlets during the prohibited hours, based upon timely sale of tickets, chits, decanters, or other devices. After hours of sale of malt beverage and/or wine, retail license holders for beer and/or wine shall lock all coolers in which their stock of beer or wine is sold, kept, or displayed.

Sec. 1.19 - Coin-operated devices; amusement machines.

No retail dealer in distilled spirits by the package shall permit on his premises any slot machines or mechanical music boxes or pinball machines of any kind or character or any coin-operated machines or any machines operated for amusement purposes.

Sec. 1.20 - Delivery by retailer beyond licensed premises.

It shall be lawful for any person issued a license under this Ordinance to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license provided as follows.

- (a) The delivery address shall be located within the local licensing jurisdiction of the packaged goods retailer.
- (b) The delivery shall take place only during lawful times when alcoholic beverages can be sold by the packaged goods retailer for consumption off the premises.
- (c) No delivery shall knowingly be made to any address or to any property that is part of: Any public or private elementary or secondary educational school, including without limitation any dormitory, housing, or common space located on the campus; Any prison, reformatory, and other correctional facilities; Any addiction or substance abuse facilities; Any locker, mailbox, package shipping location, or similar service or storage facility business; Or any retailer.
- (d) The individual making the purchase shall, prior to ordering and purchasing alcoholic beverages for delivery, establish an account maintained by the packaged goods retailer.
- (e) The packaged goods retailer or employee shall process all payments made by the individual who is transacting the purchase with the packaged goods retailer prior to the alcoholic beverages leaving such packaged goods retailer's licensed premises for delivery.
- (f) The packaged goods retailer, employee, or third party shall assemble, package, and fulfill each order at the licensed premises of the packaged goods retailer from inventory located at such licensed premises.
- (g) All alcoholic beverages that leave the licensed premises of the packaged goods retailer shall remain in the possession of the individual, either the packaged goods retailer, the

- employee, or the third party, that removed it from the licensed premises for delivery and shall not be transferred to any other person until the time of delivery or until the time of the return of the packaged goods retailer if delivery is not made.
- (h) All alcoholic beverages that leave the licensed premises of the packaged goods retailer shall only be transported in a vehicle or other transportation device containing products or goods traveling in intrastate commerce for delivery in the local licensing jurisdiction of the licensed premises of such packaged goods retailer and shall not be carried, commingled, or stored with other products or goods traveling in interstate commerce for delivery.
  - (i) Delivery shall be made by the packaged goods retailer, employee, or third party who: Is at least 21 years of age; Has a valid Georgia driver's license; Has undergone with the last twelve months a background check that includes a local and national criminal history and driving records; Has not had more than three moving violations in the prior three-year period; Has not been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror; Has undergone training approved by the department of sales and delivery of alcoholic beverages in Georgia; Shall not possess or handle as part of or during delivery forms of compensation that are used to purchase or transact the sale of alcoholic beverages.
  - (j) Delivery shall be made by the packaged goods retailer, employee, or third party to an individual who is at least 21 years of age and presents proper identification verifying the age of such individual and obtaining his or her signature on a written or electronic acknowledgement of receipt of the order and certification of legal age to purchase alcoholic beverages. The packaged goods retailer, employee, or third party shall scan or otherwise verify the proper identification of the individual accepting deliver at the time of delivery and shall retain a record of such individual's name and date of birth for a minimum of three years and that shall be available for inspection.
  - (k) The packaged goods retailer maintains control and responsibility over the sales transaction and shall retain sole discretion to determine whether to accept and complete an order or to reject an order.

#### Sec. 1.21 - Drive-in window.

A licensed retail dealer of packaged malt beverages, wine, or distilled spirits may sell from "drive-thru" or "service" windows, to customers in vehicles provided any such drive-thru window shall be lighted and clearly visible from a street or sidewalk. Any such drive-thru window shall be covered by a canopy or roof structure in compliance with applicable building codes and any City of Eton Appearance Standards (Ordinance 2008-7).

#### Sec. 1.22 - Clear view of entrance and interior of licensed premises.

- (a) 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.
- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon 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 such premises shall be so lighted that its interior is visible day and night.

#### Sec. 1.23 - Signage and Advertising

All exterior advertisements for licensees under this Ordinance shall be restricted according to state law and according to zoning ordinances and exterior sign ordinances of the City.

#### Section 1.24 - Products for sale, display, or offer other than alcoholic beverages

- (a) No retail dealer shall sell or offer for sale or display or keep in stock at its place of business where alcoholic beverages are offered for sale by the package, any other product, except the following:
- (1) Tobacco products, limited to tobacco, cigarettes, cigars, chewing tobacco, snuff, cigarette papers, lighters, and matches.
  - (2) Chewing gum and breath mints.
  - (3) Beverages containing no alcohol and commonly used to dilute distilled spirits.
  - (4) Ice, ice chests, and cozies (individual can and bottle coolers).
  - (5) Paper, styrofoam or plastic cups; and wine gift bags which are limited to a size to accommodate one 750 ml size bottle and which contain only products approved for sale or display by this regulation.
  - (6) State-approved lottery tickets and related state approved lottery materials, but only if the retail dealer is a state-approved retail lottery dealer location.
  - (7) Check cashing services arising out of the sale of alcoholic beverages.
  - (8) Automated teller machine service for customer use.
  - (9) Gift certificates for use at the issuing licensed retailer
  - (10) Bar supplies, such as:
    - a. Cork screws, openers, straws, swizzle stirrers, and bar related glass ware, bar related metal ware, bar related ceramic ware and bar related plastic ware.
    - b. Cocktail olives, onions, cherries, lemons, and limes.
    - c. Beverage alcohol drink recipe booklets, bar guides, and consumer-oriented beverage alcohol publications.
- (b) Products co-packaged with alcohol beverages are limited to the items approved for sale or display by this section but shall not include alcohol beverage products of a different class.
- (c) Retail dealers are not permitted to separate co-packaged products for individual sale. Products packaged together are to be offered for sale and sold as a single unit.
- (d) Beverages containing no alcohol and commonly used to dilute distilled spirits may be dispensed through the use of vending machines, but no alcoholic beverage shall be dispensed through such vending machines.

#### Sec. 1.25 – Police Supervision

Anyone holding a license for the sale of alcoholic beverages shall, at all times, permit the police department to have complete supervision over the conduct of those people patronizing the establishment, and any dealer or licensee refusing to permit the police department to have full supervision, or interfering with such activities or hindering the proper policing of such establishments, will be subject to having the license suspended or revoked in the manner provided in this Ordinance.

#### Sec. 1.26 - Sales in connection with other businesses.

No retail license for the sale of alcoholic beverages by the package shall be allowed in or in connection with any restaurant, cafe or eating place or in the same room where a bar is maintained for

the dispensing and sale alcoholic beverages by the drink or any other business establishment. Nothing in this section, however, shall be construed to limit or prohibit the operation of a package store in the same building complex with other businesses.

Sec. 1.27 - Misrepresentation of contents.

Under this Ordinance it shall be unlawful for licensees or their agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

Sec. 1.28 - Sale to certain persons.

No person issued a license under this Ordinance or any other person on the licensed premises shall sell any alcoholic beverages to any person in an intoxicated condition or to any person known to such licensee or his employees to be an habitual drunkard or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

Sec. 1.29 - Private clubs.

Any private club that secures a pouring license under this Ordinance and that is operated behind locked doors shall provide at least two keys to each lock or, where cards are used for admittance, two cards for each lock, properly marked. Two keys or two cards shall be provided to the Chief of Police. The changing of the locks without supplying new keys or cards shall be grounds for revocation of the license.

Sec. 1.30 - Copy of Alcoholic Beverage Ordinance on premises.

It shall be the duty of the management of a pouring or package outlet to maintain a copy of the pouring or package license ordinance contained in this Ordinance at the location and to instruct each employee on the terms thereof.

Sec. 1.31 - Sale of gasoline on premises where beer, wine and malt beverages sold.

The sale of gasoline shall be allowed at a convenience store location which holds a valid and effective beer, wine or malt beverage license issued by the city, subject to the following restrictions:

- (1) There must be present on the premises an inventory of retail goods and merchandise available for sale having a retail value of not less than \$8,000.00, excluding the value of alcoholic beverages and cigarettes, at all times. For purposes of measuring whether an inventory of retail goods and merchandise of a value of at least \$8,000.00 is available at all times for sale on the premises, there must be an average monthly inventory based upon the inventory records for the specific premises of at least \$8,000.00, excluding alcoholic beverages and cigarettes.
- (2) No drive-in window sales of alcoholic beverages shall be allowed.
- (3) Each license holder at the premises shall have his monthly inventory records showing the retail value of all goods and merchandise on the premises at the location of the premises at all times during regular business hours for inspection by the Chief of Police or the Clerk.

Sec. 1.32 - Proper identification—Definition.

"Proper identification" as used in this Ordinance shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and such person's date of birth. Proper identification includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

Sec. 1.33 - Responsibility to examine proper identification, exceptions to prohibitions.

It shall be the responsibility of the licensee to examine the proper identification of each patron to ascertain that such patron is 21 years of age or older.

Sec. 1.34 - Brown bagging prohibited; exception; sanction.

- (1) Except as otherwise provided herein, it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes.

## **ARTICLE II. – LICENSE**

Sec. 2.1 - Approval of Mayor and Council.

- (a) No alcoholic beverage license shall be issued until it has been approved by the Mayor and Council.
- (b) No alcoholic beverage license shall be approved unless all sections of this Ordinance have been met.

Sec. 2.2 - Grant or privilege.

Every license issued under this article shall be a mere grant or privilege to carry on such business during the term of the license, subject to all the terms and conditions imposed by this Ordinance and related laws, applicable sections of this Code and other City Ordinances and Resolutions relating to such business.

Sec. 2.3- Types of licenses.

The types of alcoholic beverage licenses which may be issued under this article are as follows:

- (1) Pouring distilled spirits
- (2) Pouring wine and malt beverages
- (3) Package distilled spirits
- (4) Package wine and malt beverages
- (5) Wholesale alcoholic beverages
- (6) Manufacturer, distilled spirits 50,000 gallons or more annually
- (7) Manufacturer, malt beverages 5,000 barrels or more annually
- (8) Micro-distillery
- (9) Micro-brewery
- (10) Pub
- (11) Local caterer or concessionaire
- (12) Private club
- (13) Tasting Permit (limited to certain licensee holders as specified in section 2.16)

Sec. 2.4 - Holding more than one retail license.

A retail alcoholic beverage licensee may hold more than one type of retail license, provided that each license must be approved by the Mayor and Council.

Sec. 2.5 - Use restricted to license type.

It shall be unlawful for a licensee to engage in any activity pertaining to the sale of alcoholic beverages except as authorized by the type of license held.

Sec. 2.6 - Limitations on use.

- (a) It shall be unlawful for any person operating a premises license for the sale of wine and malt beverages to store or have on the premises any distilled spirits without a license, therefore.
- (b) A restaurant, brewpub, beer growler or other consumption on premises alcohol retail licensee may sell wine and beer in unopened packages only to customers for carry-out purposes or through its drive thru window, except:
  - (1) On a day or at any time when the sale of packaged beer or wine is otherwise prohibited by law;  
or,
  - (2) At any location which is with distances to grounds or buildings where the sale of alcoholic beverages are otherwise prohibited by law.
- (c) A restaurant, brewpub, beer growler or other consumption on premises alcohol licensee is prohibited from selling distilled spirits for carry out purposes or through its drive thru window.

Sec. 2.7 - Display.

Each licensee for the sale of alcoholic beverages shall have his license posted conspicuously in his place of business. The failure of a licensee to display the license conspicuously in his place of business shall be a violation of this Ordinance and shall subject the licensee to citation and nonjudicial sanctions as provided in this Ordinance upon a finding of a violation after a hearing.

Sec. 2.8 - Inspection of licensed establishments.

Sworn officers of the Police Department and the Clerk shall have the authority to inspect establishments licensed under this article during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this Ordinance and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other sections of this Code.

Sec. 2.9 - Audits.

The Clerk or a designated outside auditor shall be authorized to conduct an audit of the records and books of a retail alcoholic beverage licensee for the purpose of determining whether such licensee is in compliance with this Ordinance or any other provision of the Code. The Clerk or a designated outside auditor shall notify a licensee of the date, time and place of the audit, and the licensee shall present for inspection at such date, time and place its books and records for audit purposes, and such licensee shall cooperate with the city officials and the agents of the city conducting said audit.

The burden of proving compliance with minimum annual food sales requirement contained in this Ordinance shall be on the licensee. Compliance with such requirement may only be proven through the submission of licensee's business records made and kept in the ordinary course of business. If the licensee is unable to meet its burden of proof with such business records, then licensee shall be deemed to be in violation of this article, and, in addition to any other remedy or right available to the city, the licensee shall be liable for, and shall pay to the city upon demand, the cost of said audit.

Sec. 2.10 - Separate businesses.

Under this Ordinance a separate license shall be required for each business location, and a separate application shall be made for each such place.

Sec. 2.11 - Annual fees.

All annual alcoholic beverage license fees shall be paid in advance before January 1st of each year, and any new license granted during a calendar year shall be prorated for the remainder of the calendar year.

Sec. 2.12 - Amount of fees.

- (a) Each person manufacturing or selling distilled spirits in the city shall pay an annual license fee as follows:

Retailers, package sales	\$5,000
Pouring	\$2,500
Private Club, pouring only	\$2,500
Local caterer or concessionaire, all alcoholic beverages-pouring only (per event)	\$300
Special Events, all alcoholic beverages-pouring only (per event)	\$300
In-Room Service, package sales	\$1000
Wholesalers	\$100
Micro-Distillery	\$750
Micro-Brewery	\$750
Manufacture, distilled spirits 50,000 gallons or more annually	\$5,000
Manufacture, malt beverages 5,000 barrels or more annually	\$5,000
Tasting Distilled Spirits (limited to certain licensee holders as specified in section 2.16) (per event)	\$100

- (b) Each person manufacturing or selling malt beverages in the city shall pay an annual license fee as follows:

Retailers, package sales	\$400
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Pouring	\$500
Private Club, pouring only	\$400
Local caterer or concessionaire, all alcoholic beverages-pouring only (per event)	\$300
Special Events, all alcoholic beverages-pouring only (per event)	\$300
In-Room Service	\$100
Wholesale	\$100
Micro-Distillery	\$200
Micro-Brewery	\$200
Tasting Malt Beverages (limited to certain licensee holders as specified in section 2.16) (per event)	\$100

(c) Each person manufacturing or selling wine in the city shall pay an annual license fee as follows:

Retailers, package sales	\$100
Pouring	\$500
Private Club, pouring only	\$400
Local caterer or concessionaire, all alcoholic beverages- pouring only (per event)	\$300
Special Events, all alcoholic beverages-pouring only (per event)	\$300
In-Room Service	\$50
Wholesalers	\$100
Micro-Distillery	\$50
Micro-Brewery	\$50
Winery	\$400
Tasting Wines (limited to certain licensee holders as specified in section 2.16) (per event)	\$100

Sec. 2.13 - Responsibility for employee's conduct.

Every person issued an alcoholic beverage license is responsible for the conduct or actions of his employees while in his employ.

Sec. 2.14 - Availability of prices and penal sections.

Each retail licensee for the sale of distilled spirits shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the beverages offered

for sale and one printed copy of the penal sections of this article. However, a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottles or on the bottom of the shelf where beverages are exhibited for sale.

Sec. 2.15 - Occupancy requirements; security.

- (a) Every holder of an alcoholic beverage license shall comply with the occupancy load requirement set forth in part 1003.2.2.5 of the International Fire Code (2000 edition), as amended.
- (b) If the holder of a pouring distilled spirits license operates a pouring outlet other than a restaurant, then such license holder shall comply with the following security requirements: During all times of operation, the pouring outlet must have a minimum of one security person and at least two security persons for each 100 persons present during the hours of operation of the pouring outlet. Security personnel must be at least 21 years of age with no criminal convictions other than moving traffic violations. Security personnel must wear clothing which clearly identifies the personnel as security while on duty.

Sec. 2.16 – Malt Beverage, Wine, and Distilled Spirits tasting.

- (a) A wine-tasting, malt beverage (beer) tasting, or distilled spirits tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of malt beverages, wine, or distilled spirits by the drink and a valid current malt beverage, wine, or distilled spirits license from the state and a tasting event shall only take place on the licensed premises and only at times at which such alcoholic beverages may be lawfully sold. The samples provided at the tasting event shall be free samples and may be open to the general public or limited by invitation. No licensee of packaged alcohol shall knowingly and intentionally allow or permit the breaking of any package or packages containing alcoholic beverages on the premises where sold or allow or permit the drinking of the contents of such package or packages on the premises where sold.
- (b) Only fifty-two (52) may be held on the licensed premises and such tasting event shall not exceed four hours.
- (c) Only one type of alcoholic beverage may be served at a tasting event, either malt beverages, wine, or distilled spirits, provided, however, that more than one brand of such type of alcoholic beverage may be offered so long as not more than four packages are open at any one time.
- (d) If the tasting event is for malt beverages, a consumer shall not be served more than eight ounces of malt beverages during such tasting event. If the tasting event is for wine, a consumer shall not be served more than five ounces of wine during such tasting event. If the tasting event is for distilled spirits, a consumer shall not be served more than one and one-half ounces of distilled spirits during such tasting event.
- (e) Only alcohol beverages that the licensee is licensed to sell on the licensed premises may be offered as part of a tasting event, and such alcoholic beverages shall be part of the licensee's inventory. Only one type of alcoholic beverage may be served at a tasting event, either malt beverages, wine, or distilled spirits. However, more than one brand of each type of alcoholic beverage may be offered so long as not more than four (4) packages are open at any one time.
- (f) Only food that is lawful to sell on the licensed premises may be served as part of a tasting event and such food shall be offered at no cost to the consumer.
- (g) Any operator or employee of the licensee may refuse to provide any brand, type, or quantity of alcoholic beverage to any consumer.
- (h) The licensee shall notify Eton prior to holding a tasting event and acquire a tasting permit.
- (i) Any broken package containing alcoholic beverages on the licensed premises that is not licensed for retail sales for consumption on the premises shall be kept locked in a secure room or cabinet by the operator of the licensed premises except when in use during a tasting event.

- (j) Representatives and salespersons of manufacturers or wholesales may attend a tasting event; provided, however, that such representatives and salespersons shall not host the tasting event, pour any alcoholic beverage, or provide anything of value to any consumer or to the licensee or an employee of a licensee.
- (k) Nothing in this section shall be construed to prohibit a representative or salesperson of a manufacturer or wholesales from opening a package of alcoholic beverages on the premises of a retail package liquor store or other retail dealer for the purposes of providing samples of such alcoholic beverage product to a retail dealer or its employees for consumption on the licensed premises, provided that: All samples are provided and consumed in the presence of a representative or salesperson of the manufacturer or wholesaler in an office, storage room, or other area of the licensed premises of the retail dealer that is closed to the public; Such representative or salesperson of the manufacturer or wholesaler removes from the licensed premises any packages he or she brought onto such licensed premises in order to provide samples of alcoholic beverage products.
- (c) A wine-tasting, beer-tasting, or distilled spirits tasting permittee shall be subject to all laws, rules and regulations of the city and state, including rule 560-2-5-.05 of the state department of revenue, alcohol and tobacco division, and shall be subject to permit revocation for violation thereof.
- (e) The city may revoke or suspend such tasting permits and/or impose such conditions on its operation at the city's discretion for violation of this Code or in furtherance of the health, safety, and welfare of the city's inhabitants.

#### Sec. 2.17 - Public benefits verification.

- (a) The Mayor and Council find that the issuance of an alcohol beverage license is a public benefit as defined by federal and state law and therefore all persons who apply for an alcohol beverage license individually or on behalf of a partnership, corporation, limited liability company or other entity shall, as a condition precedent to the issuance of an alcohol beverage license, execute and deliver to the Clerk an affidavit on a form approved by the Clerk which shall state:
  - (1) The applicant is a United States citizen or legal permanent resident 18 years of age or older; or
  - (2) The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, 18 years of age or older lawfully present in the United States and provides the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.
- (b) Eligibility for an alcohol beverage license shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the Department of Homeland Security or successor program.
- (c) Until such eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence in the United States and an alcohol beverage license may be issued conditioned upon eligibility verification through the SAVE program. In the event the applicant's non-eligibility is determined through the SAVE program, the alcohol beverage license shall be immediately deemed null and void.

### ARTICLE III - QUALIFICATIONS GENERALLY

#### Sec. 3.1 - Issuance to person.

A license required under this article shall be issued to a person, as defined in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended.

Sec. 3.2 - Location of premises.

No license for the manufacture, wholesale or retail sale of alcoholic beverages shall be issued except where such business is to be located in the area of the city properly zoned for such business.

Sec. 3.3 - Distance requirements.

- (a) For an alcoholic beverage license to be issued to, other than a local caterer or concessionaire, the premises of the applicant must meet the following distance requirements:
  - (1) For a license for alcoholic beverages, the premises shall not be located in or within 300 feet of any church building or within 600 feet of any school building, educational building, school grounds, or college campus.
  - (2) As used in this subsection (a), the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common school or in colleges of the state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).
  - (3) For purposes of this subsection, the term "college campus: shall include, but shall not be limited to, all buildings and grounds of any public or private technical school, vocational school, college, university, or other institution of postsecondary education.
- (4) No new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sale of distilled spirits shall be located within 1000 feet of any other business licensed to engage in the retail sale of distilled spirits as measured by the most direct route of travel on the ground. Its distance limitation shall not apply to any hotel otherwise licensed under state and local law.
- (5) For the purposes of subsection (a) and (b) of this section, distance shall be measured by the most direct route of pedestrian travel on the ground along the right-of-way. Distance shall be measured from the nearest building wall of any church or nearest property line of any school, educational building, or college campus to the center of any door of customer entry of the proposed premises of the applicant.
- (6) Nothing contained in Section 3.3 shall prohibit the licensing of the sale or distribution of alcoholic beverages by: Hotel of 50 rooms or more which have been in continuous operation for a period of at least five years preceding July 1, 1981; Bona fide private clubs, owning their own homes, subject to licensing under this Ordinance.

Sec. 3.4 - Disqualified location.

Except as provided herein the Clerk may not accept or process an alcoholic beverage license application for a location that is associated with a license that is suspended, revoked, or expired pursuant to section 6-208. An alcoholic beverage license application for such location may be accepted and processed by the Clerk if the business at such location is sold pursuant to a bona fide sale at fair market value to a person or entity with no direct or indirect relationship to the holder, or equity owner of the holder if the holder is not an individual, of the suspended, revoked or expired alcoholic beverage license at that location. Conditions precedent to the acceptance and processing of a license at such location shall be the delivery of the following documents to the city clerk:

- (a) Copy of the sales contract for the business.
- (b) Sworn affidavit of seller, or all equity owners of seller if seller is not an individual, that the:
  - (1) Sale price represents the fair market value of the business.

- (2) Affiant does not have and will not have an interest in business of the applicant buyer.
  - (3) Affiant is not a relative of the buyer or any equity owner of buyer, if applicable; and
  - (4) Affiant will receive no payment from the buyer other than as set forth in the sales contract.
- (c) Sworn affidavit of buyer, or all equity owners of buyer if buyer is not an individual, that the:
- (1) Sale price represents the fair market value of the business.
  - (2) Affiant has never had an interest in business of the seller.
  - (3) Affiant is not a relative of the seller or any equity owner of seller, if applicable; and
  - (4) Seller, and the equity owners of seller, if applicable, will receive no payment from the buyer other than as set forth in the sales contract.

#### Sec. 3.5 - Citizenship, age, and residency requirements.

Citizenship, age, and residency requirements for an applicant for a license to engage in the sale of alcoholic beverages shall be as follows:

- (1) If an individual, the person shall be a United States citizen or an alien lawfully admitted for permanent residence, a resident of the State of Georgia for at least 12 months, and at least 21 years of age.
- (2) If a partnership, corporation, limited liability company, or other entity, this section shall apply to all its partners, officers, managers, and principal owners as defined in section 6-108(a). If a corporation or limited liability company, the license shall be issued to the corporation or limited liability company. Where the principal owner or member is not a resident of the city or county, the corporation or limited liability company shall designate an individual as its agent who must be a resident of the city or county for at least 12 months and at least 21 years of age who shall be responsible for any matter relating to the license. For a partnership, the license shall be issued to one of the partners. If a partner is not a resident of the city or county, the partnership must designate a city or county resident of at least 12 months and at least 21 years of age as the partnership agent who shall be responsible for any matter relating to the license.
- (3) Notwithstanding anything in this section to the contrary, an applicant for a license to sell packaged distilled spirits must have been a bona fide resident of the State of Georgia for at least 12 months immediately preceding the application.
- (4) If the person to whom any license is issued does not live in the city or county, an outlet manager must be named and registered with the city. The outlet manager shall be a resident of Murray county for at least 12 months. Upon change of the previously registered outlet manager, the holder of the license must notify the Clerk no later than ten (10) days from the date of the change of such outlet manager and all information required hereunder with regard to the new outlet manager shall also be furnished to the Clerk.

#### Sec. 3.6 - Filing of changes.

Any change in any relationship declared in this division must be filed, when made, with the Clerk, and failure to do so within a period of 30 days after such change is made shall be grounds for cancellation of a license granted under this Ordinance by the mayor and council.

#### Sec. 3.7 - Disqualification generally.

No application for any license required under this article shall be granted where the application, investigation or the evidence presented at a hearing before the Mayor and Council shows any of the following conditions to exist:

- (1) The applicant or his agent has a conviction, as defined in section 3.8.
- (2) The applicant or any agent, stockholder, partner, or member of the applicant has had any license issued by the city or any other municipality previously revoked.
- (3) The applicant or his agent, as a previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business, within a 36-month period immediately preceding the date of the application. In the event of a renewal application, offences prosecuted and resolved pursuant to this Ordinance shall not be considered.
- (4) The applicant's business is not properly zoned for the license applied for or does not otherwise meet the requirements of this Ordinance.

#### Sec. 3.8 - Persons with prior convictions.

- (a) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Convicted* includes an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

*Principal owner* refers to an individual owning, directly or indirectly, a five percent or more interest in a corporation, partnership, limited partnership, limited liability company or other entity.

- (b) No license for the sale of alcoholic beverages shall be issued to any individual, partnership, limited partnership, corporation or limited liability company where such individual or any individual who is a principal owner of any partnership, limited partnership, corporation, limited liability company or other entity, or who is the agent responsible for matters relating to the license shall have been:
- (1) Convicted under any federal, state, or local law of any misdemeanor involving sexual misconduct, prostitution, pandering, violation of drug or narcotics laws, and charges relating to the manufacture or sale of alcoholic beverages within ten (10) years prior to the filing of the application for such license; or
  - (2) Adjudicated incompetent under the laws of any state, federal possession, or territory.
  - (3) Convicted under any federal state or local law of any felony within ten years prior to the filing of the application for such license.
  - (4) An officer, employee, or spouse of an officer or employee of the City of Eton, Georgia.
  - (5) Dishonorably discharged from the Armed Services of the United States of America.

#### Sec. 3.9 - In-room service.

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer, wine or distilled spirits, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service shall also be required to obtain a license for package sales and meet all the requirements of this Ordinance.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a license to do so.
- (d) Any hotel-motel establishment granted an alcohol license must derive at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

- (e) The sale of alcoholic beverages by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.

Sec. 3.10 - Local caterer or concessionaire.

- (a) Any person that holds a valid license issued by the City of Eton to sell alcoholic beverages for consumption on the premises may be issued an off-premises catering license that permits said person to sell and/or distribute alcoholic beverages by the drink off-premises at an authorized catered function. Any person seeking an off-premises catering license shall make application therefore, which shall be processed and decided according to the same guidelines set forth for other licenses under this Ordinance, including payment of the application fee and annual license fee. Upon issuance of an off-premises catering license, an event permit as set forth in this section shall be required for each authorized catered function.
- (b) Any person authorized under paragraphs (a) of this section to sell and/or distribute alcoholic beverages at an authorized catered function shall apply for and obtain a catering event permit issued by the city clerk prior to serving alcohol at such function. Applications shall be submitted not less than 30 calendar days prior to the event and shall include:
  - (1) The name of the individual licenses for sale by the drink for consumption on the premises, and the name and phone number of the employed representative for same who will be at the event.
  - (2) A plan of the event, which includes: (i) the date, location and hours of the event; (ii) the number of persons expected to be in attendance; (iii) the location of guest parking; and (iv) whether security, valet parking, or additional restroom facilities will be provided.
  - (3) The name and telephone number of the host or sponsor of the event, including the name and telephone number of the representative of the host or sponsor who will be at the event.
  - (4) The name and telephone number of the person providing food at the event.
  - (5) Payment of a non-refundable \$50.00 event permit fee.
- (c) *Catering event requirements.* All authorized catered functions permitted under this section receiving an event permit hereunder shall be subject to the following requirements and conditions:
  - (1) Alcoholic beverages may only be served at the location and on the date(s) specified in the catering event permit. Event permits shall be valid for a period not to exceed three consecutive calendar days.
  - (2) Food, the total cost of which must exceed the total cost of the malt beverages and wine served, must be served at the event.
  - (3) Copies of all event permits (state and local) shall be posted and/or maintained at the front door or entrance of the event location at all times during the event. Caterers must also carry any necessary state documents and permits in the vehicle transporting the alcoholic beverages to the event.
  - (4) Alcoholic beverages may only be served during the hours specified in section 1.17 of this Ordinance, except for events held on sites zoned for residential uses where only four events may be held per calendar year and alcoholic beverages may only be served between the hours of 11:00 a.m. and 10:00 p.m.
  - (5) The service of malt beverages and wine is subject to compliance with state laws and regulations regarding service of alcoholic beverages at such an event, including the receipt of any necessary state permits and filing of reports with the state revenue commissioner; and
  - (8) Caterers licensed by City of Eton shall pay excise taxes on the sale of alcoholic beverages, as calculated under this Ordinance, section 9.1, and provide a report to the city within 15 days of the conclusion of the event.

- (d) Except as set forth in this section, a local caterer or concessionaire licensee must comply with all other sections of this Ordinance.

#### ARTICLE IV - APPLICATION AND ISSUANCE GENERALLY

##### Sec. 4.1 - Application required.

Every person desiring to obtain a license required under this Ordinance shall make formal written application to the Mayor and Council for such privilege, signed by the applicant and agent, if applicable, upon forms to be prepared and provided by the Clerk. All such applicants and agents shall furnish all reasonable data, information and records requested of them by the Clerk, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss the application. Applicants or those having an interest in the application, by filing an application, agree to produce any criminal record for review by the Clerk and the Mayor and Council and, for oral interrogation, any person requested by the Clerk or by the Mayor and Council and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of the application. The application must be in the name of the person conducting the business at the address contained in the application.

##### Sec. 4.2 - False information.

Any material omission or untrue or misleading information contained in or left out of an original or renewal application for an alcoholic beverage license shall be cause for the denial thereof. If any license has previously been granted on the basis of such misleading statements or material omissions, such shall constitute cause for the revocation of the license.

##### Sec. 4.3 - Processing fee.

Upon filing an application for an alcoholic beverage license with the Clerk, the City shall require the applicant to pay a fee to cover the cost of processing the application in such an amount as the Mayor and Council shall set from time to time.

##### Sec. 4.4 - Payment of taxes and other debts to city.

The Clerk shall cause an inquiry to be made into the City tax records to determine if an applicant for an alcoholic beverage license or other party with interest in the application has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the City. No license shall be issued or renewed until such debts are paid in full.

##### Sec. 4.5 - Issuance.

Upon an application for an alcoholic beverage license being granted by the Mayor and Council, a license shall be issued to the applicant as of the date the applicant commences his alcoholic beverage business and upon the payment by the applicant of the license fee prescribed in section 2.11.

#### Sec. 4.6 - Notification of denial.

The denial of an application for an alcoholic beverage license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant. Upon timely application, any applicant aggrieved by the decision of the Mayor and Council regarding a permit or license shall be afforded a hearing with an opportunity to present evidence and cross examine opposing witnesses.

#### Sec. 4.7 - Acceptance and consideration of application after rejection or revocation.

When any application for an alcoholic beverage license is denied for cause or any license is revoked for cause by the Mayor and Council, the Mayor and Council shall not accept or consider any application by such applicant or licensee for a license to operate the same type of business within 24 months in the event of a denial for cause and 60 months in the event of a revocation for cause.

#### Sec. 4.8 - Time limit for commencement of business.

An applicant must open the alcoholic beverage business in the establishment referred to in the application within six months after its approval by Mayor and Council. The Clerk shall not issue the alcoholic beverage license until presented with the applicant's notarized statement stating the applicant is in fact the owner of the establishment and will open for business on a date certain. The license shall be dated as of the date certain in the affidavit and shall not be effective until that date. Failure to open the licensed establishment within the six-month period or the date stated in the applicant's affidavit shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

#### Sec. 4.9 - Time limit for closed business.

Any holder of a license issued under this division who shall begin the operation of the business authorized in the license, but who shall for a period of six consecutive months thereafter cease to operate the business as authorized in the license, shall, upon completion of the six-month period, automatically forfeit his license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action of the mayor and council.

### ARTICLE V - WHOLESALERS

#### Sec. 5.1 - Compliance with article by wholesalers.

All wholesalers licensed under this article shall file a certified statement of the gross sales of the business for the preceding calendar month with the Clerk on or before the 20th of the following month.

#### Sec. 5.2 - Interest in other licenses by wholesalers.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any license under the terms of this article.

### Sec. 5.3 - Sales and deliveries by wholesalers.

Alcoholic beverage deliveries and sales by wholesalers under this article shall only be made to retailers properly licensed for the operation of alcoholic beverage establishments in the city. Deliveries shall be made in a conveyance owned and operated by the licensed wholesaler, and such license shall, at all times when deliveries are made in the corporate limits, be in the conveyance making such deliveries and shall be subject at all times to inspection by any and all duly authorized city authorities.

### Sec. 5.4 - Retailers to purchase from licensed wholesalers.

Retail dealers in alcoholic beverages licensed under the applicable sections of this article shall not buy or accept deliveries of alcoholic beverages from wholesalers or other persons offering alcoholic beverages for sale except from wholesalers duly licensed under this article. Any such retail dealer shall only accept deliveries of alcoholic beverages directly to the premises for which his license or permit is issued and by no means other than a conveyance owned and operated by a wholesaler licensed as required by this article. However, on written request to the mayor and council and upon the granting of permission by the mayor and council in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the mayor and council as to each such delivery.

### Sec. 5.5 - Invoices.

Upon every delivery of distilled spirits by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered together with the price thereof and the tax collected on the distilled spirits. The original copy of such invoice shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of the invoice and shall keep it for a period of 12 months. The wholesaler shall keep such invoices for one year after the date of the invoices, and during the year such invoices shall be made available for inspection by authorized city representatives. If requested by an authorized city representative, a copy of such invoices shall be attached to any reports requested or required by the city.

## ARTICLE VI. - RENEWAL AND TRANSFER

### Sec. 6.1 - Renewal required.

All licensees under this article shall be required to renew their licenses annually on forms prescribed by the Clerk.

### Sec. 6.2 - Time of renewal; provisional renewal.

- (a) Any person licensed under this article shall be required to renew his license before January 1st. Any license not renewed by January 1st shall expire automatically and without notice at 12:01 a.m. on January 1st. Any application for a new license necessitated by the failure to timely renew shall be assessed a penalty in the amount of ten percent of the license fee to cover administrative costs associated therewith.
- (b) The Clerk shall not accept a renewal application for a suspended license until the suspension period for that license has ended.

### Sec. 6.3 - Transferability.

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) If an individual licensee dies, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur. However, no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application with the Clerk for authorization to continue to sell for such period.
- (c)
  - (1) If a licensee or responsible person, other than the owner, severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 60 days from the date of such severance, provided a new application is filed with the Clerk within ten days of such severance which submits a new licensee or responsible person, as the case may be, for approval and indicates that there has been no change in the ownership of the licensed establishment. If approved, the term of the new license shall be for the remaining term of the original license. No additional license fees, other than an advertising and administrative fee set by the Clerk from time to time, shall be required from the applicant.
  - (2) If a licensed establishment is sold to a person who, at the time of the sale, holds a valid license to sell alcohol at another establishment located within the city (purchaser), the purchaser may continue, if otherwise qualified and with the written permission of the original license holder, to sell alcohol under the permit or permits of the selling license holder for a period of 60 days from the date purchaser's application to sell alcohol at the purchased licensed establishment (the temporary period), provided purchaser makes such application on or before the date of sale and in writing on a form approved by the Clerk, agrees to accept, all responsibility for and arising from the license during the temporary period. If approved, the term of the purchaser's license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the purchaser.
- (d) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license and who meet the qualifications of a licensee under this article. This subsection shall not prohibit the transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's holdings by a total of ten percent or more of any class stock.
- (e) If a transfer of location is approved by the Mayor and Council, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (f) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued automatically, without the necessity of any hearing.
- (g) Violation of this section shall result in revocation of the license being used, and no license will be issued to the old or the new owner in the city for one year from the date of the violation.

## ARTICLE VII. - LICENSE STATUS

### Sec. 7.1 - Expiration upon delinquency.

A license issued under this article shall expire automatically and without notice upon the occurrence of a delinquency of 20 days in:

- (a) Filing any required monthly report under this Ordinance; or

- (b) Paying over any required excise tax levied under this Ordinance or any other indebtedness owed to the city.

Sec. 7.2 - Revocation of state license.

Whenever the State Department of Revenue shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, any license issued under this Ordinance for the same licensed premises shall thereupon be automatically revoked without any action by the Mayor and Council or any City Officer, and the licensee shall not be entitled to any refund of any license fee theretofore paid to the City.

Sec. 7.3 - Suspension in emergency.

The Mayor, the Chief of Police, or the Clerk are each delegated the authority to suspend any license issued under this Ordinance for due cause in any emergency situation, and the suspension shall be made effective immediately and shall remain in force until the next regular or called meeting of the Mayor and Council.

Sec. 7.4 - Other licenses.

When the Mayor and Council or the Clerk find a violation of any section of this Code for which the licensee shall have his alcoholic beverage license suspended or revoked, all alcoholic beverage licenses of the licensee shall be so suspended or revoked.

ARTICLE VIII. - HEARING PROCESS

Sec. 8.1 - Action by Mayor and Council.

The Mayor and Council shall have full power and authority to revoke or suspend any license to an alcoholic beverage licensee for a violation of this Ordinance or any local, state, or federal law. When the Mayor and Council shall suspend or revoke a license it shall give written notice thereof with the reason(s) to the licensee and affording the licensee with an opportunity for a hearing if requested by the licensee within thirty (30) days of the date of such written notice. At said hearing the licensee shall be given an opportunity to present evidence and cross-examine opposing witnesses. The Mayor and Council shall hear all relevant evidence presented in said hearing and determine by majority vote thereafter whether to restore the license or uphold the revocation or suspension.

Sec. 8.2 - No refund of fee.

When an alcoholic beverage license is revoked, suspended, or expires, the city shall not be required to refund any portion of the license fee.

Sec. 8.3 - Removal of signs and alcoholic beverages.

When any license for selling alcoholic beverages is revoked or automatically expires, all alcoholic beverages and all signs indicating that such beverages may be sold or purchased shall be removed from the place of business, both outside and inside. After receipt by the police department of notice of such revocation or expiration, the police department shall take the necessary steps to see that this section is enforced.

ARTICLE IX. - EXCISE TAX

## DIVISION 1. - RETAIL CONSUMPTION DEALER

### Sec. 9.1 – Pouring Outlets

In addition to the license fee levied upon a retail consumption dealer, there is levied an excise tax on the sale of alcoholic beverages by the drink of three (3%) percent of the charge to the public for the beverage. The tax levied herein shall be paid by the retail consumption dealer to the City of Eton for sales on a monthly basis due no later than the twentieth (20<sup>th</sup>) day of the next calendar month. Such remittance shall be made to the Clerk on a reporting form specified by the Clerk.

## DIVISION 2. - DISTILLED SPIRITS

### Sec. 9.2 – Taxes Levied

In addition to all other taxes or license fees imposed upon retail dealers engaged in the city in the business of selling distilled spirits, as defined in this Ordinance, there is imposed and levied upon all such dealers an excise tax, to be computed and collected as set forth in this division.

### Sec. 9.3 - Duties of Distilled Spirits Wholesaler.

Each wholesale dealer or distributor selling, shipping, or delivering distilled spirits to any retail dealer in the city shall, as a condition of the privilege of carrying on such business in the city:

- (1) Keep true and correct records of all sales, shipments, or deliveries of such distilled spirits to each retail dealer in the city. Such records shall be preserved for a period of one year and shall be made available on request for the inspection of any duly authorized city representative.
- (2) Collect from each such retail dealer in the city, at the time of delivery of the distilled spirits, the amount of tax due under this division and hold the money in trust for the city until such amount is remitted to the city as provided in subsection (3) of this section.
- (3) On or before the 20th day of each calendar month, make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of distilled spirits to or for retail dealers in the city for the month immediately preceding the report. The report shall show the name and address of each retail dealer, quantities delivered to each retail dealer, the amount collected under the terms of this division and such other information as may be called for by the city. The report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report. There is assessed a ten-percent late charge on the gross tax due for the month. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

### Sec. 9.3 - Unlawful deliveries.

It shall be unlawful and a violation of this division for any wholesale dealer or distributor or other person to deliver any distilled spirits to any retail dealer in the city without collecting the taxes provided for in this division at the time of delivery.

### Sec. 9.4 - Noncompliance by wholesale dealer, distributor.

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the city shall notify the person in writing. If the reports are not made and the taxes remitted within five days from the date of the notice, the city may withdraw from the wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

Sec. 9.5 - Frequency of payment.

The tax imposed in this division shall be computable and payable monthly and a report filed by the tenth (10<sup>th</sup>) day of each month.

Sec. 9.6 - Rate.

The tax levied under this division shall be computed on the basis of \$0.80 per gallon of distilled spirits sold or delivered.

### DIVISION 3. - MALT BEVERAGES

Sec. 9.7 - Imposed generally.

There is levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount of \$0.05 per 12 ounces or proportionately of such amount of malt beverages sold by such wholesale dealer within the corporate limits, so as to graduate the tax on bottles, cans and containers of various sizes.

Sec. 9.8 - Tap or draft beer.

All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided, but in lieu thereof there is imposed upon each wholesale dealer selling such malt beverages within the corporate limits an excise tax of \$6.00 for each barrel or bulk container having a capacity of not more than 15½ gallons sold by such wholesale dealer within the city and at a like rate for fractional parts thereof.

Sec. 9.9 - Separate from other charges.

The excise taxes provided for in this division shall be in addition to any license fee, tax or charge which may be imposed upon the business of selling malt beverages at retail or wholesale within the corporate limits.

Sec. 9.10 - Payment and collection generally.

The excise tax imposed in this division shall be paid and collected in the manner provided in this division.

Sec. 9.11 - Duties of retail dealers for receipt and presentation of invoices.

All retail dealers of malt beverages and all persons selling at retail malt beverages within the city shall keep a correct record of all purchases of malt beverages and shall demand of and require all persons from whom they purchase malt beverages to furnish and deliver to them with such beverages a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 9.12 - Report of wholesale dealers.

Each wholesale dealer who has sold malt beverages within the city shall file a report by the tenth day of each month itemizing for the preceding calendar month the exact quantities of all malt beverages, by size and type of container, for the month sold within the city. Each such wholesale dealer shall remit to the city on the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this division.

#### Sec. 9.13 - Delinquencies.

The failure to make a timely report and remittance under this division shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of ten percent of the amount of such remittance for each successive 30-day period or any portion thereof during which such report and remittance are not filed. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

#### Sec. 9.14 - False report.

The filing of a false or fraudulent report under this division shall render the wholesale dealer making such report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

#### Sec. 9.15 - Revocation of license.

The failure to make a timely report or remittance or the filing of a false or fraudulent report under this division shall also constitute grounds for the revocation of the business license issued by the city to a wholesale dealer.

### DIVISION 4 - WINE

#### Sec. 9.16 - Levied.

There is imposed and levied a specific excise tax upon all retail dealers in wine within the city limits at the rate of \$0.22 per liter container.

#### Sec. 9.17 - Separate from other taxes and fees.

The tax levied under this division shall be in addition to all other taxes or license fees imposed upon retail dealers in wine and may be added by the retail dealer and collector as a sales tax from each customer, but the tax shall be paid nevertheless to the city by the retail dealer.

#### Sec. 9.18- Payment and collection generally.

The excise tax imposed in this division shall be paid and collected as provided in this division.

#### Sec. 9.19 - Invoices.

Each distributor, wholesale dealer or manufacturer selling, shipping or delivering wine to any retail dealer or to any establishment having a pouring license in the city, by rail, truck or otherwise, shall make

three true and correct copies of invoices of all sales and deliveries made to and for retail dealers in the city. One copy shall be delivered to the retail dealer at the time of delivery and one copy shall be retained and preserved by the wholesaler, distributor or manufacturer for a period of 12 months from the date of the sale to the retail dealer. The copy so retained shall be subject to inspection by any duly authorized city representative at all reasonable times.

Sec. 9.20 - Collection and custody.

At any time of delivery of wine, the wholesale dealer, distributor or manufacturer shall collect from the retail dealer the taxes imposed by this division and shall hold the money in trust for the city until the tax is remitted to the mayor and council as provided in this division.

Sec. 9.21 - Monthly report.

On or before the 10th day of each calendar month, each wholesale dealer, distributor and/or manufacturer delivering wine to or for any retail dealer or to an establishment having a pouring license shall make a true and correct report to the mayor and council on blanks to be furnished by the mayor and council of all sales and deliveries made to or for retail dealers in the city for the current month immediately preceding the report. The report shall show the name of each retail dealer, the location of the place of business of the retailer or the place where each delivery was made, the method of delivery, the number and size of each container, the amount collected as taxes and such other information as may be called for by the mayor and council. The failure to receive such blanks will not excuse the furnishing of the report and the remittance of the taxes.

Sec. 9.22 - Remittance.

The report required by section 6-381 shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.

Sec. 9.23 - Duties of retail dealers for receipt and preservation of invoices.

All retail dealers of wine and all persons selling wine at retail within the city shall keep a correct record of all purchases of wine and shall demand of and require all persons from whom they purchase wine to furnish and deliver to them, with the wine, a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from the date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 9.24 - Failure to make reports.

If a wholesaler, distributor or retail dealer of wine fails and refuses to make the reports or maintain records as provided in this division and at the time specified, the mayor and council shall notify the party in writing by mail or otherwise. If the reports are not made and the taxes paid within five days from the date of the notice, the mayor and council shall proceed to assess the amount of taxes due by the dealer from the best information available, together with ten percent thereof as a penalty, and proceed to collect the taxes and penalty as provided for the collection of delinquent license taxes. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

Sec. 9.25 - Sale upon which tax not paid.

It shall be a violation of this article for any person to sell at retail or otherwise within the city any wine on which the tax as set out in this division has not been paid to the wholesaler or distributor for the city as provided or on which the tax not paid to the wholesaler or distributor at the time of delivery is not paid to the city by the retailer.

#### Sec. 9.26 - Prohibited sales and deliveries.

It shall be unlawful and a violation of this article for any wholesaler, distributor, manufacturer or other person to deliver any wine to any retail dealer in the city or to transport wine into the city for resale by any means whatsoever, except to licensed wholesale distributors, without collecting the taxes thereon as set out in this division at the time of delivery.

#### Sec. 9.27 - Revocation of license.

Any retail dealer of wine failing or refusing to pay the tax imposed and levied in this division or failing to abide by any of the terms or sections of this article shall be deemed to have forfeited his privileges of conducting or engaging in the business of selling wine in the city, and any license issued to the dealer by the city prior to that time shall be revoked and canceled.

### DIVISION 5. - ALCOHOLIC BEVERAGES BY THE DRINK

#### Sec. 9.28 - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agent* means the person designated by the licensee in his application for a permit to sell alcoholic beverages by the drink.

*Alcoholic beverages* means any beverage containing alcohol obtained by distillation, including any distilled or fermented liquid containing consumable alcohol, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, vodka, cordials or other spirituous liquors by whatever named called and including fortified wines as defined by the Federal Alcohol Administration, but does not include nonfortified wines, beer, ale or malt liquors.

*Drink* and *mixed drink* mean any alcoholic beverage, as defined in this division, served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

*Licensee* means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, plural as well as singular number, who holds a permit from the city to engage in the sale of alcoholic beverages by the drink for consumption on the premises.

*Monthly period* means the calendar months of any year.

*Purchase price* means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including receipts, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

*Purchaser* means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, who orders and gives present or future consideration for any alcoholic beverage by the drink.

*Return* means any return filed or required to be filed as provided in this division.

Tax means the tax imposed by this division.

Sec. 9.29 - Imposition and rate.

There is imposed and levied upon every purchaser of an alcoholic beverage for beverage purposes by the drink within this city a tax in the amount of three percent (**3%**) at the purchase price of the beverage.

Sec. 9.30 - Administration of division.

- (a) *Authority of mayor and council.* The mayor and council shall administer and enforce this division for the collection of the tax imposed by this division.
- (b) *Records required from licensee form.* Every licensee for the sale of alcoholic beverages by the drink in this city shall keep such records, receipts, invoices, and other pertinent papers in such form as the mayor and council may require.
- (c) *Examination of records; audit.* The mayor and council or any person authorized in writing by the mayor and council may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for the sale of the alcoholic beverages by the drink and any licensee liable for the tax in order to verify the accuracy of any return made or, if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports contents.* In the administration of this division, the mayor and council may require the filing of reports by any person or class of persons having possession or custody of information relating to purchases which are subject to the tax. Reports shall be filed with the mayor and council when required by the mayor and council and shall set forth the purchase price for each purpose, the date of purchase and such other information as the mayor and council may require.

Sec. 9.31 - Violations.

Any person violating any section of this division shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-7. Any licensee or any other person 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 mayor and council or who renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in this section.

Sec. 9.32 - Authority and requirement of licensee to collect.

Every licensee or his agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the Mayor and Council to facilitate the collection of the tax.

Sec. 9.33 - Collection; receipts. rules and regulations.

Every licensee for the sale of alcoholic beverages by the drink operating a place of business in this city shall, at the time of collection for food and/or drink served, give to the purchaser a receipt on which the purchase price and tax imposed by this division on alcoholic beverages by the drink shall be itemized separately. When the collection of food and/or drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The Mayor and Council shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

Sec. 9.34 - Determination, returns and payments.

- (a) *Due date.* The tax imposed by this division shall become due and payable from the purchaser at the time of the purchase of any mixed drink in this city. All amounts of such taxes collected by the licensee shall be due and payable in the city monthly on or before the 20th day of every month next succeeding each respective monthly period.
- (b) *Return.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Clerk in such form as the Clerk may prescribe by every licensee liable for the payment of the tax under this division. All returns shall show the gross receipts of the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.

Sec. 9.35 - Determination if no return made.

- (a) *Estimates of gross receipts.* If any person fails to make a return as required in this division, the Mayor and Council shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is in possession of the Mayor and Council.
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

Sec. 9.36 - Penalty for nonpayment.

Any person who fails to pay the tax imposed in this division or who fails to pay any amount of the tax required to be collected and paid to the city within the time required shall pay a penalty of 15 percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof.

Sec. 9.37 - Action for tax; tax credit; penalty or interest paid more than once or erroneously or illegally collected.

At any time within three years after any tax or any amount of tax required to be collected pursuant to this division becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the mayor and council may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once or has been paid erroneously or illegally collected or received by the city under this division, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three 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 mayor and council, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid or from his administrators or executors.

SO ORDAINED this 4<sup>th</sup> day of August 2020.

The foregoing Ordinance was duly adopted by the City Council of Eton, Georgia on the 4<sup>th</sup> day of August 2020 upon motion by Council Member Dooley and second by Council Member Bartley, the same having received the requisite majority.

CITY OF ETON, GEORGIA

*Billy Cantrell*

Billy Cantrell, Mayor

ATTEST:

*Kim Hall*

Kim Hall, City Clerk