

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 72

AN ORDINANCE to add to the Code of Ordinances of the City of Lookout Mountain, Georgia, an ordinance levying and imposing an excise tax upon the sale of liquor within the City of Lookout Mountain, Georgia, and to amend in its entirety Ordinance No. 55 levying and imposing an excise tax upon the sale of malt beverages within the City of Lookout Mountain, Georgia, and providing for the enforcement and collection of said excise taxes and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia and it is hereby ordained:

ARTICLE I

WORDS AND PHRASES DEFINED

Section 1. Short Title. This Ordinance shall be known and may be cited as "The City of Lookout Mountain, Georgia Taxed Beverages Ordinance."

Section 2. Definitions. The following words, terms and phrases shall, for the purposes of this ordinance, and except where the context clearly indicates a different meaning, be defined as follows:

Section 2.1 Liquor by the Drink. Shall mean any liquor served for consumption on the premises.

Section 2.2 City. Shall mean that area lying within the corporate boundaries of the City of Lookout Mountain, Georgia, or, where the context may require, an officer, agent or official of the City of Lookout Mountain, Georgia.

Section 2.3 License. Shall mean the authorization by the City to engage in the sale of Taxed Beverages.

Section 2.4 Licensee. Shall mean any person who holds a license from the City to sell Liquor by the Drink.

Section 2.5 Liquor. Shall mean any beverage containing alcohol obtained by distillation, mixed by water or other substance and solution, including brandy, rum, whiskey, gin, cordials or other liquors by whatever named called. It shall not include malt beverages, wines or fortified wines as defined by the Federal Alcohol Administration.

Section 2.6 Malt Beverages. Shall mean fermented beverages made in whole or in part from malt or any similar fermented beverage containing no more than six percent (6%) of alcohol by volume.

Section 2.7 Person. Shall mean any individual, firm, partnership, association, corporation or other group of persons acting as a unit.

Section 2.8 Purchaser. Shall mean any person who orders and gives present or future consideration for any taxed beverage.

Section 2.9 Retailer. Shall mean any person who sells or offers to sell liquor at retail.

Section 2.10 Seller. Shall mean any retailer, wholesaler or licensee.

Section 2.11 Taxed Beverages. Shall mean liquor and malt beverages.

Section 2.12 Wholesaler. Shall mean any person who sells or offers to sell malt beverages at wholesale.

Section 2.13 Wine. Shall mean the product of the normal fermentation of the juice of fresh grapes or other berries with the usual color treatment and necessary additions to correct defects due to climactic, saccharine and seasonal conditions, including champagne, sparkling and fortified wines of an alcoholic content not to exceed twenty-one percent (21%) by volume.

ARTICLE II

IMPOSITION OF TAXES

Section 1. Malt Beverages. There is hereby imposed and levied on each Wholesaler selling Malt Beverages within the City an excise tax in the amount of

(a) Six Dollars (\$6.00) for each 15-1/2 gallon container of Malt Beverages sold within the City, and being commonly known as tap or draft beer; provided that the tax imposed by this section shall be prorated for tap or draft beer containers of different sizes.

(b) Four Thousand One Hundred and Sixty-sixth Ten-thousandths of a Cent (\$.004166) for each ounce of Malt Beverages sold within the City and which is not tap or draft beer, as described and taxed in subsection (a).

No decal, stamp or other identifying mark will be required on malt beverages sold within the City.

Section 2. Liquor by the Drink. There is hereby imposed and levied upon each purchaser of Liquor by the Drink an excise tax in the amount of three percent (3%) of the purchase price of said drink.

Section 3. Liquor. There is hereby imposed and levied upon each Retailer selling Liquor an excise tax in the amount of Eighty Cents (\$.80) per wine gallon sold in the City; provided that the tax imposed in this section shall be prorated for containers of different sizes.

ARTICLE III

COLLECTION OF TAXES

Section 1. Collection by the Seller. Every Seller of Taxed Beverages shall be authorized and directed to collect

the taxes imposed and levied hereunder from purchasers of such beverages upon each such sale within the City.

Section 2. Credit or Deferred Payment Sales. In each case where the sale of Taxed Beverages shall be by deferred payment or credit, the Seller is liable for the amount of tax at the time of the sale. In determining the amount of the deduction to which Licensees are entitled under Section 6 of this Article III, the sale shall be treated as if it were made for cash.

Section 3. Records. Every Seller of Taxed Beverages shall be required to maintain records of all sales taxed under this Ordinance. Such records must show separately the purchase price of Taxed Beverages and the amount of tax imposed by this Ordinance thereon. Records shall be maintained for a period of at least one (1) year from the date of sale, and shall be kept available for inspection by the City.

Section 4. Reports. Each Seller who has sold Taxed Beverages within the City shall file a monthly report.

(a) The reports from Wholesalers must list the gross receipts from the sale of Malt Beverages itemized by container size and the amount of taxes collected on such sales;

(b) The reports from Licensees must show the gross receipts from the sale of Liquor by the Drink and the amount of taxes collected on such sales;

(c) The reports from Retailers must list the gross receipts from the sale of Liquor itemized by container size and the amount of taxes collected on such sales.

All reports required under this section must be filed with the City on or before the tenth (10th) day of the month next following the month of sale.

Section 5. Due Date of Taxes. The taxes imposed by this Ordinance shall be due and payable to the City on or before the tenth (10th) day of the month following the month of sale.

Section 6. Collection Fee Allowed Licensees. In reporting and paying the amount of tax due to the City, a Licensee shall be allowed a deduction equal to that rate authorized for deductions from State tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, Section 92-3425(a), Georgia Code Annotated (Acts 1951 p. 360) as now or hereafter amended; provided that said tax is not delinquent at the time of payment.

Section 7. Penalties. The failure to make a timely report and remittance shall render a Seller liable for penalties equal to ten percent (10%) of the total amount due during the first thirty (30) day period following the date such report and remittance were due and a further penalty of ten percent (10%) of the amount of such remittance for each successive thirty (30) day period or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the Seller making such report liable for a penalty equal to fifty percent (50%) of the amount of the remittance which would be required under an accurate and truthful report. Such failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the License issued by the City to said Seller.

ARTICLE IV

GENERAL PROVISIONS

Section 1. Nature of Tax. The tax so levied is and shall be in addition to all other taxes, whether levied in the

form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

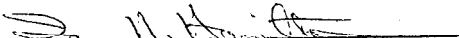
Section 2. Repealer. All ordinances or parts of ordinances in conflict with this Ordinance and not preserved hereby are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisios of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the applica-tion of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City that this Ordinance would have been adopted had such invalid portion not been included herein.

Section 4. Effective Date. This Ordinance shall be effective ten (10) days after its adoption and approval by at least three (3) members of the Council of the City after two (2) readings at least one (1) week apart.

APPROVED on first reading on May 26, 1977.


Member of City Council


Member of City Council


Member of City Council

Member of City Council

Member of City Council

Joe D. McGinnis
Mayor of City of Lookout
Mountain, Georgia

ATTEST:

City Clerk

(SEAL)

APPROVED AND ADOPTED on second reading on

June 30

1977.

W. Dickerson Jr
Member of City Council

W. N. Hamilton
Member of City Council

B. W. Duncan
Member of City Council

John Amos
Member of City Council

Member of City Council

Joe D. McGinnis
Mayor of City of Lookout
Mountain, Georgia

ATTEST:

Henry Duncan
City Clerk

(SEAL)