

ORDINANCE NO. 69

AN ORDINANCE TO CONTROL AND REGULATE
THE SALE AND DISTRIBUTION OF CONTROLLED BEVERAGES
WITHIN THE CITY OF LOOKOUT MOUNTAIN, GEORGIA

WHEREAS, in accordance with the laws of the State of Georgia, it is necessary and expedient for the City of Lookout Mountain, Georgia to establish and promulgate certain standards and regulations with regard to the sale and distribution of Controlled Beverages (as herein defined) in such City.

NOW, THEREFORE, BE IT ORDAINED, that the following rules, regulations, licenses and standards shall be effective when adopted by the Council of the City of Lookout Mountain, Georgia on second reading, and until amended and modified thereafter.

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 Controlled Beverages Ordinance."

SECTION 2. DEFINITIONS.

2.1 "Applicant" shall mean any Person making application for a License in accordance with the provisions of this Ordinance.

2.2 "City" shall mean that area lying within the corporate boundaries of the City of Lookout Mountain, Georgia.

2.3 "Community Convenience Commercial District" shall mean the area as defined in §10-2(C) of Ordinance No. 25 of the City.

2.4 "Controlled Beverages" shall mean Liquor, Malt Beverages and Wine.

2.5 "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.

2.6 "License" shall mean, unless otherwise designated or unless the context so requires, the authorization by the City to engage in the sale of Controlled Beverages at retail and/or the sale of Controlled Beverages for consumption on the Premises.

2.7 "Licensee" shall mean, unless otherwise designated or unless the context so requires, any Person licensed to engage in the sale of Controlled Beverages at retail and/or any Person licensed to engage in the sale of Controlled Beverages for consumption on the Premises.

2.8 "Liquor" shall mean any beverage containing alcohol obtained by distillation, mixed with water or other substance and solution, including brandy, rum, whiskey, gin, cordials or other liquors by whatever name called, and shall include fortified wines as defined by the Federal Alcohol Administration.

2.9 "Person" shall mean any individual, firm, partnership, association, corporation or other group of persons acting as a unit.

2.10 "Premises" shall mean the definite closed or partitioned-in locality, whether a room or building, wherein Controlled Beverages shall be sold and/or consumed.

2.11 "Private Club" has the meaning set forth in Section 10-1(23) of Ordinance No. 25 of the City.

2.12 "Restaurant" shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment with a seating capacity of at least fifty (50) persons, having employed therein a sufficient number and kind of employees to prepare, cook and serve

suitable food for its guests, and at which at least one (1) meal per day shall be served at least six (6) days a week, with the exception of holidays, and at which the serving of Controlled Beverages to be consumed on the Premises shall be incidental to the principal business conducted on the Premises.

2.13 "Tourist-Oriented Commercial District" shall mean the area defined in §10-2(B) of Ordinance No. 25 of the City.

2.14 "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

REGULATION OF SALES OF CONTROLLED BEVERAGES AT RETAIL

SECTION 1. UNLAWFUL ACTIVITY. No Person shall engage in the sale of Controlled Beverages at retail in the City without first complying with the rules and regulations set out in this Ordinance. Any Person violating the rules and regulations set forth herein shall be subject to revocation of any License issued hereunder and punishment as prescribed by the City. In addition to the rules and regulations herein set forth, each Licensee doing business in the City under this Ordinance shall comply with all laws of the State of Georgia, Federal laws, and rules and regulations of the State Revenue Commission relating to the sale and distribution of Controlled Beverages in Georgia, and any violation of same shall subject said Licensee to immediate suspension or revocation of any License issued hereunder and also shall subject Licensee to criminal prosecution by the proper authority as provided by law and the Ordinances of the City.

SECTION 2. THE APPLICANT.

2.1 Qualifications. Any Applicant for a License to sell Controlled Beverages at retail within the City must have the following qualifications:

(a) The Applicant must be a person of good moral character and a citizen of the United States, over the age of eighteen (18) and a resident of the City for a minimum of one (1) year prior to the filing of an application for such License.

(b) The Applicant shall not have been convicted within ten (10) years of the date of his application under any Federal, state, or local law for a criminal offense involving moral turpitude, nor shall any Applicant have been convicted under any Federal, state, or local law of any criminal offense involving alcoholic beverages, gambling, or tax law violations, if such conviction tends to indicate that the Applicant will not maintain the operation for which he is seeking a License in conformity with Federal, state or other laws of the City.

(c) The Applicant must establish financial responsibility to the satisfaction of the City.

(d) The Applicant shall not have had revoked, for cause, such as a violation of regulations, or improper operation, within three (3) years, next preceding the filing of his application, any license issued to the Applicant by the County of Walker, State of Georgia, or any other state or county, to sell Controlled Beverages of any kind.

(e) The Applicant shall not be an employee of the City.

2.2 Joint or Corporate Applicants. If the application covers a partnership, all members of the partnership must meet the qualifications herein set forth, and if the application is in the name of a corporation, all officers of said corporation must possess the qualifications herein set forth.

SECTION 3. THE APPLICATION.

3.1 Form of Application. An application for the sale of Controlled Beverages at retail shall be made on forms furnished by the City and shall be presented and processed in person by the Applicant and shall be accompanied by the following:

(a) A completed application form with all attachments and requirements for a state license;

(b) A personal performance bond in the amount of Five Hundred Dollars (\$500.00) payable to the City and in form satisfactory to the City requiring the faithful observance and performance by the Applicant of the rules and regulations contained in this Ordinance.

(c) Evidence of Applicant's ownership of the building or proposed building for which the License is sought or a copy of the lease if the Applicant is leasing the building;

(d) The annual fee herein required either in cash or a certified check;

(e) Financial statements on forms to be prepared by the City establishing Applicant's financial responsibility; and

(f) In the case of the sale at retail of Liquor, detailed plans and specifications of the building for which the License is sought or proposed plans and specifications and a building permit for any proposed building, either of which shall comply with the ordinances of the City, regulations of the State Revenue Commission, and the laws of the State of Georgia.

3.2 Notice of Hearing on Application. Notice of the hearing of each application shall be advertised in the official newspaper of the City once a week for two (2) weeks immediately preceding the meeting of the Council of the City at which the application is to be considered.

3.3 Time of Hearing. For the remainder of the year 1977, applications filed with the City prior to the last day of any month shall be considered by the Council of the City at the regular meeting of the Council the next succeeding month. Thereafter Applications filed with the City in any calendar year shall be considered only at the regular monthly meeting of the Council of the City in January of the next succeeding year.

3.4 Falsification of Application. The making of any statement on an application for a License which shall be false or later found to be false shall constitute grounds for denial of or revocation of any License.

SECTION 4. LOCATIONAL AND SITING CONSIDERATIONS.

4.1 Building. No license for the sale at retail of Liquor shall be issued to any Person unless the building in which the business will be located is complete or unless a building permit shall have issued by the City on proposed plans and specifications. The completed building or the proposed building shall comply with the ordinances of the City, regulations of the State Revenue Commission, and the laws of the State of Georgia. Each building in which the business will be located shall contain sufficient lighting so that the Premises are readily visible at all times from the front of the street on which the Premises is located so as to reveal the inside retail area of the Premises.

4.2 Location. No license for the sale of Controlled Beverages at retail shall be granted to any Person unless the entire Premises of the proposed location is situated within the Community Convenience Commercial District and:

(a) In the case of the sale at retail of Malt Beverages and Wine, is situated more than one hundred (100) yards from any school or school house;

(b) In the case of the sale at retail of Liquor is situated more than one thousand (1,000) yards from the property line of any church and one thousand (1,000) yards from the property line of any school ground or college campus; the measurement in either case to be by way of the nearest traveled road, street, or highway to the nearest property line of the church, school or college campus, as the case may be.

4.3 Number of Locations. Only one (1) License for the sale of Controlled Beverages at retail shall be issued to any one (1) Person in the City and each License shall cover only one (1) Premises.

SECTION 5. REGULATION OF OPERATION OF SALES OF CONTROLLED BEVERAGES AT RETAIL.

5.1 Control of Premises. Each Licensee shall be the owner, operator or manager of the Premises for which the License is held and shall be active in and solely responsible for the management and operation of the business for which the License is granted.

5.2 Sale to Minors and Others. No Licensee shall give, sell or offer to sell any Controlled Beverages to any Person who is under the age of eighteen (18), or who is noticeably intoxicated, or who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to said Licensee. At any time a state driver's license shall be considered the only legal proof of age which would relieve a Licensee making a sale from the responsibility therefor.

5.3 Handling of Controlled Beverages. No Licensee shall keep any Controlled Beverages stored in any bonded or other type warehouse in the City and no Licensee shall enter into any type of arrangement whereby Controlled Beverages ordered by said Licensee are stored for or on said Licensee's behalf by any licensed wholesaler of Controlled Beverages. A Licensee shall

keep no inventory or stock of Controlled Beverages in any place except the Premises owned, managed or controlled by Licensee.

5.4 Premises Open to Inspection. The Premises of the Licensee shall be open to inspection at any and all times by officers or officials authorized to conduct such inspections.

5.5 Employees of Licensee. All managers, clerks or other employees of Licensee shall be of good character and Licensee shall employ no Person who is under eighteen (18) years of age in any capacity wherein such Person would be engaged in the sale of Controlled Beverages.

5.6 Breach of Peace. No Licensee shall commit any breach of the peace or engage in any disorderly conduct, or act in any lewd, immoral or improper manner or allow any lewd, improper or immoral entertainment, conduct or practice upon the Premises owned, leased or controlled by Licensee.

5.7 Gambling on Premises. Licensee shall not permit to be conducted and shall not conduct or carry on any gambling, betting, games of chance, punch-boards, slot machines, pin-ball machines, lotteries or tickets or chances therein or any schemes of hazarding money or any other thing of value on any of Licensee's Premises or in any room or building adjoining the same, owned, leased or controlled by Licensee.

5.8 Sale on Premises Only. No Licensee shall sell or deliver any Controlled Beverages to any Person except on the Premises of Licensee which Controlled Beverages shall be sold for consumption off the Premises of Licensee only.

5.9 Time of Sale. No Licensee shall furnish, sell or offer for sale any Controlled Beverages on any day prior to 7:00 a.m. or after 12:00 p.m., and in addition thereto at any of the other following times:

(a) At any time on Thanksgiving Day, Christmas Day or Sundays; or

(b) At any time when in violation of a City Ordinance or regulation or a special order of the City; or

(c) On any day during which any state primary, general or special election is being held or on any day during which any primary, general, or special election is being held in the City.

5.10 Additional Regulations Concerning Sale of Liquor at Retail. In the case of the sale of Liquor at retail:

(a) Licensee shall sell or offer to sell in the original or unbroken package only and shall sell no package containing less than one-half (1/2) pint.

(b) Licensee shall not sell or offer for sale or display or keep in stock any product other than Liquor except for the following: (i) Wines, when properly licensed; (ii) beverages containing no alcohol commonly used to dilute Liquor; (iii) Malt Beverages, when properly licensed; (iv) tobacco products; and (v) packaged ice.

ARTICLE III

REGULATION OF SALES OF CONTROLLED BEVERAGES

FOR CONSUMPTION ON THE PREMISES

SECTION 1. UNLAWFUL ACTIVITIES. No Person shall engage in the sale of Controlled Beverages for consumption on the Premises in the City without first complying with the rules and regulations set out in this Ordinance. Any Person violating the rules and regulations set forth herein shall be subject to revocation of any License issued hereunder and punishment as prescribed by the City. In addition to the rules and regulations herein set forth, each Licensee doing business in the City under this Ordinance shall comply with all laws

of the State of Georgia, Federal laws and rules and regulations of the State Revenue Commission relating to the sale and distribution of Controlled Beverages in Georgia, and any violation of same shall subject said Licensee to immediate suspension or revocation of any License issued hereunder and also shall subject said Licensee to criminal prosecution by the proper authority as provided by law and the Ordinances of the City.

SECTION 2. THE APPLICANT.

2.1 Qualification. Any Applicant for a License to sell Controlled Beverages for consumption on the Premises within the City shall have the qualifications set forth in Section 2.1 of Article II of this Ordinance, which qualifications are specifically incorporated herein by reference, and in addition thereto must be the owner, operator or manager of a Restaurant or Private Club.

2.2 Joint or Corporate Applicants. If the application covers a partnership, all members of the partnership must meet the qualifications herein set forth and if the application is in the name of a corporation, all officers of said corporation must possess the qualifications herein set forth.

SECTION 3. THE APPLICATION.

3.1 Form of Application. An application for the sale of Controlled Beverages for consumption on the Premises shall be made on forms furnished by the City and shall be presented and processed in person by the Applicant and shall be accompanied by the documents required by Section 3.1 (a) through (e) of Article II of this Ordinance.

3.2 Notice of Hearing on Application. Notice of the hearing of each application shall be advertised in the official newspaper of the City once a week for two (2) weeks

immediately preceding the meeting of the Council of the City at which the application is to be considered.

3.3 Time of Hearing. For the remainder of the year 1977 applications filed with the City prior to the last day of any month shall be considered by the Council of the City at the regular meeting of the Council the next succeeding month. Thereafter applications filed with the City in any calendar year will be considered only at the regular monthly meeting of the Council of the City in January of the next succeeding year.

3.4 Falsification of Application. The making of any statement on an application for a License which shall be false or later found to be false shall constitute grounds for denial of or revocation of any License.

SECTION 4. LOCATIONAL AND SITING CONSIDERATIONS.

4.1 Location. No License for the sale of Controlled Beverages for consumption on the Premises shall be granted to any Person unless the entire Premises of the proposed location is situated within the Community Convenience Commercial District or the Tourist Oriented Commercial District and:

(a) In the case of the sale for consumption on the Premises of Malt Beverages and Wine, is situated more than one hundred (100) yards from any school or school house;

(b) In the case of the sale for consumption on the Premises of Liquor is situated more than one thousand (1,000) yards from the property line of any church and one thousand (1,000) yards from the property line of any school ground or college campus; the measurement in either case to be by way of the nearest traveled road, street, or highway to the nearest property line of the church, school or college campus, as the case may be.

4.2 Private Clubs. Anything in this Section 4 to the contrary notwithstanding, any Private Club may obtain a License for the sale of Controlled Beverages for consumption on the Premises even though not located within the Community Convenience Commercial District or the Tourist Oriented Commercial District.

4.3 Number of Locations. Only one (1) License for the sale of Controlled Beverages for consumption on the Premises shall be issued to any one (1) Person in the City and each License shall cover only one (1) Premises.

SECTION 5. REGULATION OF OPERATION OF SALES OF CONTROLLED BEVERAGES FOR CONSUMPTION ON THE PREMISES. In addition to the regulations set forth in Sections 5.1 through 5.6 of Article II of this Ordinance which regulations are specifically incorporated herein by reference:

5.1 Sale on Premises Only. No Licensee shall sell or deliver any Controlled Beverages to any Person except on the Premises of Licensee which Controlled Beverages shall be sold for consumption on the Premises only.

5.2 Limitation on Size of Container of Controlled Beverage. No Licensee may purchase any Liquor in a container size larger than one half (1/2) gallon. No Licensee shall sell Liquor in unbroken packages or any other Controlled Beverages in such a quantity as may be in excess of that which could be consumed on the Premises.

ARTICLE IV

PROVISIONS APPLICABLE TO BOTH THE
REGULATION OF SALES OF CONTROLLED BEVERAGES
AT RETAIL AND FOR CONSUMPTION ON THE PREMISES

SECTION 1. THE LICENSE.

1.1 Grant of License. The Council of the City may, in its discretion, consider any extenuating circumstances which may reflect favorably or unfavorably on any Applicant, any application or the proposed location of any Premises. If in the judgment of the Council of the City circumstances are such that the granting of any License hereunder would not be in the best interest of the general public, such circumstances may be grounds for not issuing any License.

1.2 License a Privilege. Any License issued hereunder shall be a mere grant of privilege to carry on business during the term of the License subject to all terms and conditions imposed by this Ordinance or any future ordinance, and subject to revocation in the manner herein provided. Any License issued hereunder shall clearly reflect the scope of authority granted to the Licensee and shall have printed on the front thereof the following:

"THIS LICENSE IS A MERE PRIVILEGE SUBJECT TO BEING REVOKED AND ANNULLED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LOOKOUT MOUNTAIN, GEORGIA UPON NOTICE AND OPPORTUNITY TO BE HEARD."

1.3 Term. Any License issued hereunder shall be valid only for the calendar year indicated thereon and no such License may be renewed. A Licensee who desires to continue in business during the next or subsequent calendar year must make a new application for such year on or before November 1 of the preceding year, which application may incorporate by reference those portions of previous applications not substantially changed or otherwise modified.

1.4 Assignment of License. No License issued hereunder shall be transferrable or assignable to any person or other location and in the event that a licensed business is sold or closed, it shall be the duty of the Licensee to immediately surrender his License to the City.

1.5 Responsibility. Each Licensee shall keep a copy of this Ordinance on the Premises and shall instruct any Person working therein with respect to the terms hereof, and each Licensee shall at all times be familiar with the terms hereof. Each Licensee shall be held responsible for any acts of said Licensee's employees or agents in violation of this Ordinance or of the laws of the State of Georgia or the rules and regulations of the Georgia Revenue Commission, where applicable.

SECTION 2. UNLAWFUL ACTIVITIES OF PERSONS OTHER THAN LICENSEE.

2.1 Purchase by Minors. It shall be unlawful for any Person under the age of eighteen (18) to purchase any Controlled Beverages in the City, and it shall be unlawful for any Person to buy any Controlled Beverages and to furnish or give the same to a Person under the age of eighteen (18) for consumption.

2.2 Falsification of Age Records. It shall be unlawful for any person under the age of eighteen (18) to exhibit faked, forged or borrowed credentials in an effort to obtain or purchase any Controlled Beverages to which he is not entitled.

2.3 Consumption on Premises. It shall be unlawful for any Person to open, drink or otherwise consume any Controlled Beverages at or upon the Premises where such Controlled Beverages are purchased unless the owner, operator or manager thereof shall hold a License for consumption of Controlled Beverages on the Premises.

2.4 Disorderly Conduct. It shall be unlawful for any Person to commit any breach of the peace, any disorderly conduct or to act in any lewd, immoral or improper manner or to allow any lewd, improper, immoral entertainment, conduct or practice upon the Premises of a Licensee.

2.5 Manufacturing or Transporting of Controlled Beverages. Except for wholesalers delivering Controlled Beverages to Licensees in the City, it shall be unlawful for any Person to manufacture, sell, possess or transport for the purpose of sale any Controlled Beverages within the City.

SECTION 3. FEES PAYABLE BY LICENSEES.

3.1 Amount. In addition to the excise taxes imposed by the Ordinances of the City on the sale of Controlled Beverages, each Applicant for a License issued hereunder shall pay to the clerk of the City at the time of the filing of the application, a fee determined as follows:

- (a) For the sale at retail of Malt Beverages
and Wine - - - - - \$ 250.00
- (b) For the sale at retail of Liquor - - - - - 1,000.00
- (c) For the sale for consumption on the
Premises of Controlled Beverages - - - - - 250.00

3.2 Forfeiture of Fees and Bond. Upon the violation of this Ordinance or any part thereof or upon the Licensee ceasing to do business for any other reason whatsoever, any fee payable hereunder and so much of the bond required to be posted by Section 3.1(b) of Article II and 3.1 of Article III as the Council of the City shall determine based upon the seriousness of the violation after a hearing conducted in accordance with Section 4 of this Article IV shall be forfeited to the City, and said Licensee shall have no further right to or interest in said fee or bond.

SECTION 4. REVOCATION OR SUSPENSION OF LICENSE.

4.1 Procedure. Any License issued hereunder, or which may hereafter be issued by the City may be suspended or revoked for due cause (as hereinafter defined) after a hearing held for the purpose of considering such suspension or revocation. At least five (5) days prior written notice shall be given to the Licensee which notice shall contain a statement of the charges upon which such hearing shall be held.

4.2 Due Cause. Due cause for the suspension or revocation of any License issued hereunder shall consist of any of the following:

(a) The violation of any provision of this Ordinance or the violation of any law, ordinance or regulation made pursuant to lawful authority for the purpose of regulating the sale of Controlled Beverages.

(b) The change in circumstances of any Licensee in such a way that had such circumstances existed when the application of such Licensee was filed, a License would not have been granted.

(c) Any recurrent breaches of the peace, disturbances or altercations occurring on the Premises of Licensee or the failure of Licensee to report to the City any violation of the laws or ordinances governing the sale of Controlled Beverages of which the Licensee has knowledge.

4.3 Reapplication for License. When any License issued hereunder is suspended or revoked by the City, the City shall not accept or consider any application from the Licensee whose License is suspended or revoked within twelve (12) months from the time of such suspension or revocation.

4.4 Suspension in the Event of Disorder. The Council of the City is hereby authorized to suspend the sale of Controlled Beverages under any License issued hereunder for any emergency

situation such as civil disorders or natural disasters or in any situation that the Council of the City deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the City. Such suspension may be made effective immediately and shall remain in force until the Council of the City determines the emergency is over or until the next regular meeting of the Council of the City, whichever is first to occur.

ARTICLE V

MISCELLANEOUS

SECTION 1. SAVINGS CLAUSE. If any of the sections, subsections, sentences, clauses or phrases of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected since it is the express intent of the Council of the City to pass each section, phrase, paragraph and word separately.

SECTION 2. REPEALER. All Ordinances or parts of Ordinances in conflict herewith, including but not by way of limitation, Ordinance No. 30 in its entirety as amended by Ordinance No. 48, are hereby repealed.

SECTION 3. PART OF CODE OF ORDINANCES. It is the intention of the Council of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City and the Sections of this Ordinance may be renumbered to accomplish such intention.

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 April 9, 1977.

Don N. Hamilton
Member of City Council

D. H. Petway
Member of City Council

R. W. Duncan
Member of City Council

Member of City Council

Member of City Council

Joe W. Simmons
Mayor of Lookout Mountain, Georgia

APPROVED and adopted on second reading on June 30, 1977

M. Dickinson Jr.
Member of City Council

R. W. Duncan
Member of City Council

Don N. Hamilton
Member of City Council

Member of City Council

Member of City Council

Joe W. Simmons
Mayor of Lookout Mountain, Georgia

Hamilton
(SEAL)

