

FIRST READING October 18, 2022

SECOND READING November 15, 2022

PASSED November 15, 2022

**AN ORDINANCE NO. BR2022-34**

**AN ORDINANCE TO AMEND CHAPTER 6 (“ALCOHOLIC BEVERAGES”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO AUTHORIZE NON-PROFIT COMMUNITY THEATRES AND NON-PROFIT PUBLIC ART GALLERIES TO BE AUTHORIZED TO RECEIVE LICENSES PERMITTING THE SALE OF BEER OR WINE, OR BOTH, FOR CONSUMPTION ON THE PREMISES BY THE DRINK WITHOUT HAVING TO MEET THE FOOD SALE REQUIREMENTS REQUIRED OF AN ON-PREMISES CONSUMPTION DEALER; TO PROVIDE ADDITIONAL DEFINITIONS; TO PROVIDE ADDITIONAL REGULATIONS REGARDING THE SALE OF BEER OR WINE, OR BOTH, BY NON-PROFIT COMMUNITY THEATRES AND NON-PROFIT PUBLIC ART GALLERIES; TO PROVIDE FOR THE ISSUANCE OF LICENSES FOR THE SALE OF BEER OR WINE, OR BOTH, BY NON-PROFIT COMMUNITY THEATRES AND NON-PROFIT PUBLIC ART GALLERIES; TO CORRECT A TYPOGRAPHICAL ERROR; TO PROVIDE FOR LICENSE FEES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City Council of the City of Blue Ridge, Georgia, has adopted an alcoholic beverage ordinance which is codified as Chapter 6 (“Alcoholic Beverages”) of the Code of the City of Blue Ridge, Georgia (“Code”) to allow the sale of distilled spirits, malt beverages, and wine, but with said sales regulated by the provisions of the Code;

**WHEREAS**, the City of Blue Ridge, Georgia, and the surrounding community, has as one of its main economic bases for the City and its citizens, tourism within the City and surrounding area, causing the City to have a flourishing arts community; and

**WHEREAS**, the Mayor and City Council of the City of Blue Ridge, Georgia, find that it is in the best interest of the City and its citizens to promote tourism and the resulting economic benefits to the City and its citizens; and

**WHEREAS**, the Mayor and City Council of the City of Blue Ridge, Georgia find that the promotion of tourism of the City will be further served by allowing non-profit community theaters and non-profit public art galleries to obtain licenses for the sale of beer or wine, or both, for consumption on the premises by the drink without having to meet the food sale requirements of the alcoholic beverage ordinance, but will be required to meet all other regulations regarding such sales, and thereby promote the sustainability of the non-profit community theatre and non-profit public art galleries within the City and thereby further promote tourism for the City.

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, as follows:

**SECTION 1. AMENDMENT TO CHAPTER 6 (“ALCOHOLIC BEVERAGES”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA REGARDING THE SALE OF ALCOHOLIC BEVERAGES.**

The Code of the City of Blue Ridge, Georgia, regarding the sale of alcoholic beverages is hereby amended by modifying and adopting some new provisions regulating the sale of alcoholic beverages within the City of Blue Ridge, Georgia, which shall read as follows:

(A) Section 6-1 (“Definitions”) is hereby amended by adding the following new definitions:

**Sec. 6-1. Definitions.**

*Non-profit community theatre* means an enclosed building with a minimum seating capacity of one hundred fifty (150) persons, and which is primarily devoted to theatre performances but not including any adult entertainment establishments. A non-profit community theatre must be primarily devoted to theatre performances and the performances of any such theatre shall be held on a regular basis with a minimum of 32 theatre shows or performances per year. The seating of the non-profit community theatre must be so arranged that a body of spectators can have an unobstructed view of the stage upon which theatrical, vaudeville, live concert or similar performances are given, and in which the serving of beer or wine, or both, is clearly incidental to such performances, and where the revenue derived from the sale of beer or wine, or both, is not more than 25% of the gross quarterly revenue of the non-profit community theatre when compared to all other sources of gross quarterly revenue. The non-profit community theatre shall be a bone fide non-profit civic organization. In order for a non-profit community theatre to qualify for a beer or wine, or both, license for consumption on the premises by the drink, the non-profit community theatre must have been actively and continuously in operation within the City of Blue Ridge as a non-profit community theatre and as a bone fide non-profit civic organization for at least one year immediately prior to the application for a license. All applications for either a new or renewal license to sale beer or wine, or both, by a non-profit community theatre for the year 2012 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent form 990 Return of Organization Exempt from Income Tax as signed by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the three years prior to the application of the new or renewal license and shall make such documents available for inspection upon request by any designated agent of the City of Blue Ridge, Georgia, during all hours during which the non-

profit community theatre is open for business. In the event that a corporation licensed as a non-profit community theatre for any given year loses its federal income tax exemption, such non-profit community theatre must inform the City Administrator or his/her designee in writing of such change in status within fifteen days of the change in status. The failure to provide in writing notification of such change in status within fifteen days, in addition to the violation of any other provisions of the alcoholic beverage ordinance, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine up to the maximum penalties allowed under this Code. The non-profit community theatre shall be operated exclusively for the non-profit purposes of the community theatre, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of beer or wine, or both. No member, director, officer, agent, or employee of the non-profit community theatre shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of beer or wine, or both, but nothing herein shall prohibit the governing authority of the non-profit community theatre from establishing salaries for employees out of the general revenue of the non-profit community theatre. Prior to the date of application, no non-profit community theatre shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the non-profit entity or its assets (other than in the ordinary course of operating the non-profit entity), or the right to manage the non-profit community theatre in order to obtain its license to sell beer or wine, or both, nor shall any non-profit community theatre transfer, during the time that the non-profit community theatre holds a license pursuant to this chapter, any such interest or right.

*Non-profit public art gallery* means an enclosed building with a minimum seating capacity of one hundred fifty (150) persons and which is primarily devoted to the public display of art of any media, but not including any adult entertainment establishments. A non-profit art gallery must be primarily devoted to the public display of art of any media and the displays of any such gallery shall be held on a regular basis with a minimum of 32 art displays per year. The seating of the non-profit art gallery must be so arranged that a body of spectators can have seating from place to place that allows an unobstructed view of the art, and in which the serving of beer or wine, or both, is clearly incidental to the display of said art, and where the revenue derived from the sale of beer or wine, or both, is not more than 25% of the gross quarterly revenue of the non-profit art gallery when compared to all other sources of gross quarterly revenue. The non-profit art gallery shall be a bona fide non-profit civic organization. In order for a non-profit art gallery to qualify for a beer or wine, or both, license for consumption on the premises by the drink, the non-profit art gallery must have been actively and continuously in operation within the City of Blue Ridge as a non-profit art gallery and as a bona fide non-profit civic organization for at least one year immediately prior to the application for a license. All applications for either a new or renewal license to sale beer or wine, or both, by a non-profit art gallery for the year 2012 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent form 990 Return of Organization Exempt from Income Tax as signed by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the three years prior to the application of the new or renewal license and shall make such

documents available for inspection upon request by the City Administrator or his/her designee during all hours during which the non-profit art gallery is open for business. In the event that a corporation licensed as a non-profit art gallery for any given year loses its federal income tax exemption, such non-profit art gallery must inform the City Administrator or his/her designee in writing of such change in status within fifteen days of the change in status. The failure to provide in writing notification of such change in status within fifteen days, in addition to the violation of any other provisions of the alcoholic beverage ordinance, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine up to the maximum penalties allowed under this Code. The non-profit art gallery shall be operated exclusively for the non-profit purposes of the art gallery, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of beer or wine, or both. No member, director, officer, agent, or employee of the non-profit art gallery shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of beer or wine, or both, but nothing herein shall prohibit the governing authority of the non-profit art gallery from establishing salaries for employees out of the general revenue of the non-profit art gallery. Prior to the date of application, no non-profit art gallery shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the non-profit entity or its assets (other than in the ordinary course of operating the non-profit entity), or the right to manage the non-profit art gallery in order to obtain its license to sell beer or wine, or both, nor shall any non-profit art gallery transfer, during the time that the non-profit art gallery holds a license pursuant to this chapter, any such interest or right.

...

(B) Section 6-30 ("Types of licenses to be issued") is hereby amended by adding the following additional licenses:

**Sec. 6-30. Types of licenses to be issued.**

...

- (15) Malt beverages for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery;
- (16) Wine for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery;
- (17) Combination license of malt beverages and wine for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery.

(C) Article XII ("SALES BY BONA FIDE NON-PROFIT CIVIC ORGANIZATION"), is hereby added to Chapter 6 ("Alcoholic Beverages), and which shall read as follows:

## **ARTICLE XII. NON-PROFIT COMMUNITY THEATRE OR A NON-PROFIT PUBLIC ART GALLERY**

### **Sec. 6-287. License requirements; suspension or revocation; renewal.**

(a) In order to promote tourism within the City of Blue Ridge, Georgia, and to help sustain non-profit community theatres and non-profit public art galleries which bring in tourists for the economic benefit of the City and its citizens, non-profit community theatres and non-profit public art galleries may obtain a license for the sale of malt beverages, wine, or malt beverages and wine for consumption only on the premises by the drink, pursuant to the requirements of this Chapter and subject to applying and submitting completed forms furnished by the Commissioner of the Georgia Department of Revenue and a permit from the Commissioner authorizing the organization to sell or distribute malt beverages, wine, or malt beverages and wine for consumption only on the premises by the drink, and subject to the rules and regulations of the Georgia Department of Revenue.

(b) The consumption only on the premises by the drink licenses to be issued to the non-profit community theatres and the non-profit public art galleries shall be subject to the rules and regulations in the other applicable sections of this Chapter relating to the sale and distribution of malt beverages, wine, or malt beverages and wine, including the following:

- (1) The licensing requirements in Article II;
- (2) The distance prohibitions of Section 6-33;
- (3) The compliance requirements of Section 6-3;
- (4) The penalty for false information within an application as set by Section 6-45;
- (5) That the license is a privilege and conditional upon the holder meeting the requirements of this ordinance as provided in Section 6-48;
- (6) The inspection authority as provided by Section 6-83;
- (7) The employee requirements as to age and criminal history as provided in Section 6-84;
- (8) The days and hours of operation requirements as required by Section 6-85;
- (9) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by Section 6-86; and
- (10) The prohibitions against open containers provided by Section 6-87.

(c) It is the intent of the City Council of the City of Blue Ridge, Georgia that a non-

profit community theatre or a non-profit public art gallery meet all of the requirements as to having a license for consumption of beer or wine, or both, on the premises by the drink imposed by this ordinance as outlined hereinabove except that said entities shall not have to have a working kitchen and do not have to meet the food sales requirements for a consumption on the premises by the drink license.

(d) Besides meeting the licensing requirements as provided by this ordinance, an applicant shall also provide a sketch that depicts the physical delineation of the area in which beer or wine, or both, are to be sold within the enclosed building that contains the theatre or the art gallery. Licenses issued pursuant to this article shall be valid only for the place delineated within the application. The applicant shall also provide the documentation to demonstrate that applicant meets the definition of a non-profit community theatre or a non-profit art gallery. The issuance of the license shall also be conditioned upon the Commissioner for the Georgia Department of Revenue issuing the Department's license for the sale of beer or wine, or both, for consumption on the premises by the drink. Applicants shall be required to pay the annual license fee as provided herein and said license shall be subject to all rules and regulations mandated by this ordinance as provided herein.

**SECTION 2. CORRECTION OF TYPOGRAPHICAL ERROR**

A typographical error in the current ordinance is hereby corrected by deleting subsection (b)(5) of Section 6-171 (“Charitable events; sales by bona fide nonprofit organizations”) and substituting in lieu thereof a new subsection 6-171(b)(5) to read as follows:

...

(5) That the special use temporary permit is a privilege and conditional upon the holder meeting the requirements of this ordinance as provided by in Section 6-48.

...

**SECTION 3. LICENSE FEES**

The fee for the sale of beer and malt beverages for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be \$500.00.

The fee for the sale of wine for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be \$500.00.

The fee for the sale of beer, malt beverages, and wine for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be \$1,000.00.

**SECTION 4. SEVERABILITY.**

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions 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 effect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

**SECTION 5. REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.**

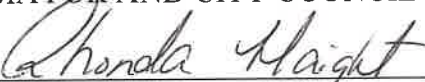
All parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

**SECTION 6. EFFECTIVE DATE.**

The effective date of this ordinance shall be upon its passage by the City Council.

**SO ORDAINED** this 15 day of November, 2022.

MAYOR AND CITY COUNCIL OF BLUE RIDGE

  
\_\_\_\_\_  
Mayor, City of Blue Ridge

  
\_\_\_\_\_  
Clerk, City of Blue Ridge

