

ORDINANCE #97-01

TOWN OF WOOLSEY, GEORGIA

AN ORDINANCE entitled "Alcoholic Beverages", authorizing package sales within the Town of Woolsey of beer and wine; defining terms employed in the ordinance; requiring licenses for such sales; prescribing qualifications for, and terms and conditions under which such licenses shall be obtained and maintained; establishing license fees and imposing local excise taxes upon wholesale and retail sales of regulated beverages; requiring reports of sales and collection of taxes by wholesale dealers and distributors of alcoholic beverages; regulating the times, places and manner of operation of businesses licensed for such sales; prohibiting specified conduct by licensees, their servants, agents, and employees, and by purchasers, possessors and consumers of regulated beverages; providing penalties for violations of and for offenses defined by this ordinance; defining procedures for issuance, suspension, revocation of licenses; setting standards of conduct and qualifications for employees of licensees; authorizing administrative and enforcement actions by Town officials, agents and employees; declaring severability of ordinance provisions, and for other purposes.

BE IT ORDAINED, and by authority of the Mayor and Council of the Town of Woolsey, it is hereby ordained and enacted as follows:

Alcoholic Beverages

Art. I. Wine, 1-1 - 1-32

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Div. 2. License, 1-9 - 1-25

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Art. II. Malt Beverages, 1-36 - 1-70

Div. 1. Generally, 1-36 - 1-43

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Art. IV. Severability, 1-77

ARTICLE I. WINE* DIVISION 1. GENERALLY

Sec. 1-1. Definitions.

Except as specifically otherwise set forth hereinafter and where the context clearly indicates a different meaning, the words, terms and phrases used in this ordinance shall have the meanings set forth in the Georgia Alcoholic Beverage Code as hereafter from to time amended, i.e., Chapter 3-1, Official Code of Georgia Annotated. Words, terms and phrases not treated or referred to in this section shall be defined in their ordinary signification as set forth in the latest edition of Webster's New Collegiate Dictionary

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Applicant is an individual or entity applying for any license authorized by this ordinance, and shall include individuals supplying written information to the Town in connection with the license application of a corporation or other entity which is not a natural person.

Church shall be defined as a permanent edifice in which persons regularly assemble for religious worship.

Interest in a license is the ownership, co-ownership, or profit-sharing right in the income from sales of alcoholic beverages pursuant to a license hereunder which shall include: (a) those rights of the holder of as much as 5% of the issued and outstanding stock of a corporate licensee, or 5% of the beneficial ownership of any licensee which is not a natural person and (b) any right title or interest held by any natural or artificial person or entity in the premises on which a licensee's operations are conducted, except that right, title or interest held under a deed to secure debt, trust deed or other security device securing repayment of a bona fide loan to the licensee.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six 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.

Regulated beverage shall denote any alcoholic beverage whose sale is authorized under license granted pursuant to this ordinance.

Town, or the Town, shall mean the Town of Woolsey, Georgia.

Vinous liquors shall mean those beverages which come within the definition of "wine" herein.

Wine shall mean any alcoholic beverage containing not more than twenty-one (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. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this article.

***State law references**--Local alcoholic beverage licenses, OCGA Section 3-3-2 et. se.; local regulation of distilled spirits, OCGA section 3-4-40 et seq.; local regulation of malt beverages, OCGA section 3-5-40 et seq.; local regulation of wine, OCGA section 3-6-40; public drunkenness, OCGA section 16-11-41; ordinances on drinking or intoxication generally, OCGA sections 37-8-aa, 37-8-53.

***State law reference**--Wine, OCGA section 3-6-1 et seq.

***State law references**--Definitions relating to alcoholic beverages, OCGA section 3-1-2; definitions relating to win, OCGA section 3-6-1.

Sec. 1-2. Purpose of article.

This article has been enacted in accordance with a plan designed for the purposes, among others, to promote the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of vinous liquors, to protect and preserve schools and churches, to give effect to land use regulations, and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, traffic in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values.

Sec. 1-3. Penalties for violation of article or application irregularities.

(a) Any person who acquires a license or a renewal of same in violation of this article by any misrepresentation or fraudulent statement shall be deemed guilty of an offense against the Town and upon conviction thereof shall be punished as provided by the Town Charter for offenses generally.

(b) Any untrue or misleading information contained in, or material omission from an original, renewal or transfer application for a retail vinous liquor license shall be cause for the denial thereof, or if granted, for the revocation of such license.

State law reference--Violations of alcoholic beverage law, OCGA sections 3-1-4, 3-3-9.

Sec. 1-4. Retail licensee prohibited from having direct financial interest in wholesale liquor business.

No person shall hold a retail license who also has any direct financial interest in any wholesale liquor business.

Sec. 1-5. Personal restrictions on interest in retail license.

(a) For the purposes of this section, the word "family" shall be deemed to include any person related to the holder of such license within the first degree of consanguinity or affinity as computed according to the civil law.

(b) It shall be unlawful for any elected or appointed official, or employee of the town, to have any whole, partial or beneficial interest in any license to operate retail vinous liquor stores in the town.

Sec. 1-6. Business locations near library, schools, churches, public recreation centers; requirements.

No license shall be issued to any retailer under this article where the place of business of the licensee is located within three hundred (300) feet of a public library or publicly operated alcohol treatment center, or unless the business of the licensee is situated beyond three hundred (300) feet from any church and beyond six hundred (600) feet from any property line of any school ground, college campus, or publicly owned recreation center.

***State law reference**--Sales of alcoholic beverages near churches, school buildings, etc., OCGA section 3-3-21.

Sec. 1-7. Location near private residence; distance requirements; "private residence" defined.

(a) No license shall be issued under this article to any location which is within 100 feet of any private residence, such distance to be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of the residential building.

(b) A "private residence," for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

Sec. 1-8. Zoning requirements for business location.

No license to engage in the sale of vinous liquors shall be issued unless the site of sales has been zoned in compliance with the zoning laws of the town.

DIVISION 2. LICENSE*

Sec. 1-9. Qualifications of applicant.

(a) No retail license required by this article shall be granted to any applicant who is not a citizen of the United States or a permanent resident alien, as defined by the immigration and nationality laws of the United States, and who has not resided continuously in this state for one (1) year next preceding the year for which application is made. Where the applicant is a corporation, it must have been previously licensed to conduct business in the state for a period of one (1) year, and the license will be issued to the corporation. If the applicant is a partnership, the within requirements shall apply to all the partners.

(b) All applicants for licenses must attach to their application evidence of their good character. No original license shall be issued to any person, partnership, corporation, or other entity, where any individual

having an interest either as owner, partner, stockholder, directly or indirectly beneficial or absolute, or his spouse, shall have been convicted or shall have given a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or for violation of any county, city, or town ordinance, except traffic violations.

Sec. 1-10. Application--Contents.

(a) All applications for licenses, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 1-1) in retail packaged vinous liquor stores. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged vinous liquor, together with any interest each person or any member of his immediate family has in any other retail packaged spirituous liquor store or vinous liquor store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and buildings) of all persons having any whole, partial, beneficial or other interest in and to the land and/or building on and in which the retail packaged vinous liquor store is located.

(5) Any other information called for by the town's mayor and council.

(b) Any change in any relationship as declared pursuant to this ordinance must be filed with the mayor and council when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for revocation of any license, permit or privilege issued, based on the application containing such declaration, by the town mayor and council.

***State law references**--Local powers as to alcoholic beverage licenses, OCGA section 3-3-2; local wine license, OCGA section 3-6-40

Sec. 1-11. Same--Property survey.

All applications under this division shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed premises and stating the straight line distance from the proposed premises where the licensed sales are to occur, to the building and property lines of the nearest church, school, college campus, residence, and publicly owned recreation area, library and alcohol treatment center within eight hundred (800) feet of such premises of applicant.

Sec. 1-12. Physical requirements of applicant's premises.

(a) No license shall be granted to a retailer, under provisions of this division, unless the front entrance to the premises is clearly visible from a public street; however, this restriction shall not apply where the licensee is a hotel, motel, private club, or where licensee's location is in a shopping center or multiple-story business building.

(b) Where a building in which a retailer intends to operate under the provisions of this article is, at the time of the application for such license, not in existence or not yet completed, a license may be issued for such location provided the plans for the proposed building clearly show a compliance with the other provisions of this article. No sales shall be made from such establishment until it has been completed in accordance with the plans and is in conformity with all the other provisions of this article.

Sec. 1-13. Notice of application for license.

All persons desiring to engage in the sale of vinous liquors at retail in the town shall give notice of the purpose of making such application by advertisement, after a date for a public hearing is set pursuant to

section 1-15, in at least two (2) consecutive issues of the legal organ of Fayette County, which notice shall contain a particular description of the location of the proposed vinous liquor business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of its officers and all stockholders. The advertisement referred to herein shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch, two-column advertisement.

Sec. 1-14. Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged vinous liquor at retail and all applications for renewal of such new licenses shall be investigated by the town clerk or other designee of the mayor and council. No such new or renewal license shall be acted upon by the mayor and council or on behalf of the mayor and council until the town attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the town's investigative designee, no violation exists as to any town ordinance in effect as of the date of the rendering of such opinion. All applicants for new or renewal licenses shall furnish to the mayor and council or its designee all data, information and records requested of them by the same. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request shall serve, ipso facto, to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package vinous liquor at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the mayor and council, the town attorney, and/or other designee(s) of the mayor and council, as to any facts considered by the interrogator pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the mayor and council, town clerk, the town attorney or other designee(s) of the mayor and council, any person requested by such proposed interrogator in the ascertainment of the facts relative to the application. Failure to produce such persons within thirty (30) days after being requested to do so shall result, ipso facto, in the dismissal of the pertinent application for license.

Sec. 1-15. Public hearing on application.

All applications for licenses for the retail sale of vinous liquors shall be acted upon by the mayor and council after a public hearing after advertisement as required by law, such advertisement to be made as provided in section 1-13 foregoing, and proof of same furnished to the mayor and council prior to the hearing.

Sec. 1-16. Grant of application.

All applications to engage in the sale at retail of vinous liquors meeting the standards of this division shall be granted unless some specific cause related to location, traffic condition or other environmental factor shall justify refusal. In such case, the applicant shall be entitled to file a new application for a license at an eligible location without loss of any part of his application or license fee.

Sec. 1-17. Annual license fee schedule.

(a) The annual license fee for the privilege of engaging in the business of selling vinous liquors at retail as described herein shall be as follows:

(1) The sum of five hundred dollars (\$500.00) per annum.

(2) The sum of one hundred dollars (\$100.00) shall be paid at the time an original application is filed to cover investigative costs, which shall be credited against the first annual license fee upon grant of a license. This fee is not refundable.

(b) The annual license fee for the privilege of engaging in the wholesale vinous liquors business within the town shall be one hundred dollars (\$100.00) per annum.

(c) All renewal license fees shall be paid between January first and January twentieth each year.

Sec. 1-18. Issuance of license.

(a) All licenses must be obtained and fees paid not later than two (2) weeks from the date of the approval of the application by the mayor and council; and, if not so obtained, the approval granted by the mayor and council shall be void.

(b) When a license has been approved, the required fee shall be paid to the town and a license issued.

Sec. 1-19. Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal, he shall be entitled to a refund of the license fee, less the investigative fee as required in section 1-17(a)(2), plus an additional charge of twenty-five dollars (\$25.00) to cover clerical costs. Such refund may be made by authority of the mayor and council.

Sec. 1-20. Terms of license.

No license shall be issued for less than a calendar year period. In case of the revocation or surrender of such license before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

Sec. 1-21. Business to be opened within nine months from license issuance; effect of failure.

(a) All holders of licenses for the retail sale of vinous liquors must, within nine (9) months after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license.

(b) Failure to open the establishment and begin the sale as referred to above within the nine-month period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

Sec. 1-22. Effect of failure to operate business for nine consecutive months.

Any holder of a license for the retail sale of vinous liquors who shall begin the operation of the business and sale of the product or products as authorized in the license but who shall, for a period of nine (9) consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license shall, upon completion of the nine-month period, automatically forfeit his license, which license shall, by virtue of failure to operate, be canceled without the necessity of any further action of the mayor and council.

Sec. 1-23. Transfer of license.

Licenses issued under this division may not be transferred to another licensee, nor shall such license be used at another location.

Sec. 1-24. Suspension or revocation of license.

(a) Whenever the state shall revoke any permit or license to sell at retail any vinous liquors, the town license to deal in such products shall thereupon stand automatically revoked without any action by the mayor and council or any town officer.

(b) No license which has been issued or which may hereafter be issued by the town to any person as a retail dealer in vinous liquors shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon at least a three-day written notice to the holder of such license.

(c) "Due cause" for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or the violation of any state or federal law, or the violation of any county or town ordinances, other than traffic ordinances, which the mayor and council deem to render the licensee an improper holder of such license.

(d) Such hearings shall be conducted by the mayor and council.

(e) In the event of revocation, no refund of any portion of the license shall be made.

Sec. 1-25. Renewal of license.

(a) The renewal of an existing alcoholic beverage license shall be applied for not later than November 1 of the year preceding the year for which renewal is sought and shall be dependent upon proof that the licensee meets all requirements upon which the original application for license was granted.

(b) Licensees must provide at the time of application for renewal of license, an affidavit substantiating their compliance with the residency requirements set forth in this article.

(c) Upon applying for license renewal, licensee(s) must file an updated application as though for an original license, showing current facts and status as to all categories of information required in the licensee's application last filed with the town.

DIVISION 3. OPERATING REGULATIONS

Sec. 1-26. Front window display.

Each person licensed to sell vinous liquor at retail shall have printed on the front window of the licensed premises the inscription "Town Retail License No. _____" in uniform letters not less than four (4) inches in height.

Sec. 1-27. Exterior advertisement of vinous liquor prohibited.

No sign of any kind, painted or electric, advertising of vinous liquor shall be permitted on the exterior of any licensed premises.

Sec. 1-28. Interior visibility required; license prohibited in restaurant, etc.

(a) No exterior screen, blind, curtain, partition, article or thing which shall prevent a clear view into the window or upon the doors of any retail vinous liquor store shall be maintained, and no booth, screen, partition or other obstruction to clear view of alcoholic beverage stocks shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

(b) No retail vinous liquor license or alcoholic beverage sales shall be allowed in, or in connection with, any restaurant, cafe or eating place, nor in the same room where a bar or soda fountain is maintained for the dispensing and sale of soft drinks or other beverages.

Sec. 1-29. Business hours and days.

(a) Retail dealers in vinous liquors shall not engage in the sale of such liquors except between the hours of 7:00 a.m. and 11:45 p.m. on weekdays and shall not permit their places of business to be opened for the sale of vinous liquors on Sundays, election days, and Christmas Day.

(b) An "election day", for the purposes of the sale of vinous liquors, means that period of time beginning with the opening of the polls and ending with the closing of the polls.

State law reference--Sale of alcoholic beverages on Sundays, election days and Christmas day, OCGA section 3-3-20.

Sec. 1-30. Wholesale deliveries of vinous liquors.

It shall be unlawful to make wholesale deliveries of vinous liquors except in the store or department of the store in which such beverages are sold. Such deliveries may only be made between the hours of 7:00 a.m. and 7:00 p.m. within the same calendar day.

State law reference--Persons to whom wine may be sold by wholesale dealers, OCGA section 3-6-23.

Sec. 1-31. Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the vinous liquors offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having four (4) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where vinous liquors are exhibited for sale.

Sec. 1-32. Employees; reports to police; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where vinous liquors are sold. No retail licensee shall employ in any premises used for the sale of vinous liquors any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of: (1) a felony, or (2) of any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell vinous liquors to file with the mayor and council the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in such information must be filed with the mayor and council within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the mayor and council. A twenty dollar (\$20.00) investigative fee shall be paid by the licensee for each new employee.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-inch-square photograph of such employee for town records.

(d) No licensee shall allow any person to engage in the sale of vinous liquors prior to the completion of a satisfactory investigation by the mayor and council. Licensees in violation of this section shall be subject to a fine or administrative penalty of two hundred fifty dollars (\$250.00) per employee engaged in such practice, and may suffer suspension or revocation of his license.

State law reference--Dispensing, serving, selling, etc., of alcoholic beverages by persons under eighteen years of age, OCGA section 3-3-24.

Sec. 1-33. Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) All premises licensed hereunder shall conform at all times with all fire regulations of the county and subject to inspection by the Fayette County fire department.

Sec. 1-34. Consumption or opening on premises; posting of sign.

(a) It shall be unlawful to consume any alcoholic beverages or to open any container of alcoholic beverages on the premises licensed under this article or in any parking area associated or identified with the licensed premises.

(b) The license holder shall display at any entrances or exits to the licensed premises a sign which shall state that it is unlawful to consume any alcoholic beverages or to open any container of alcoholic beverages on the licensed premises or any parking area adjacent thereto. Such sign or signs shall be placed in such a manner as to be visible from any parking area adjacent to the licensed premises.

(c) It shall be unlawful for any license holder to permit, allow or acquiesce in the consumption of any alcoholic beverages or the opening of any container of alcoholic beverages on the licensed premises or any parking area associated or identified with the licensed premises.

Sec. 1-35. Sales on certain premises; excepted.

It shall be unlawful to sell vinous liquor on any business-licensed premises wherein less than fifty (50) percent of the total gross revenue for any year is derived from staple foodstuffs, household supplies, meats, produce, dairy products, gasoline and other petroleum products.

ARTICLE II. MALT BEVERAGES*

DIVISION 1. GENERALLY

Sec. 1-36. Definitions.

Except as specifically otherwise set forth hereinafter and where the context clearly indicates a different meaning, the words, terms and phrases used in this ordinance shall have the meanings set forth in the Georgia Alcoholic Beverage Code as hereafter from to time amended, i.e., Chapter 3-1, Official Code of Georgia Annotated. Words, terms and phrases not treated or referred to in this section shall be defined in their ordinary signification as set forth in the latest edition of Webster's New Collegiate Dictionary

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Applicant is an individual or entity applying for any license authorized by this ordinance, and shall include individuals supplying written information to the Town in connection with the license application of a corporation or other entity which is not a natural person.

Church shall be defined as a permanent edifice in which persons regularly assemble for religious worship.

Interest in a license is the ownership, co-ownership, or profit-sharing right in the income from sales of alcoholic beverages pursuant to a license hereunder which shall include: (a) those rights of the holder of as much as 5% of the issued and outstanding stock of a corporate licensee, or 5% of the beneficial ownership of any licensee which is not a natural person and (b) any right title or interest held by any natural or artificial person or entity in the premises on which a licensee's operations are conducted, except that right, title or interest held under a deed to secure debt, trust deed or other security device securing repayment of a bona fide loan to the licensee.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six 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.

Regulated beverage shall denote any alcoholic beverage whose sale is authorized under license granted pursuant to this ordinance.

Town, or the Town, shall mean the Town of Woolsey, Georgia.

Vinous liquors shall mean those beverages which come within the definition of "wine" herein.

Wine shall mean any alcoholic beverage containing not more than twenty-one (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. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this article.

***State law references--**Local alcoholic beverage licenses, OCGA Section 3-3-2 et. se.; local regulation of distilled spirits, OCGA section 3-4-40 et seq.; local regulation of malt beverages, OCGA section 3-5-40 et seq.; local regulation of wine, OCGA section 3-6-40; public drunkenness, OCGA section 16-11-41; ordinances on drinking or intoxication generally, OCGA sections 37-8-aa, 37-8-53.

***State law reference--**Wine, OCGA section 3-6-1 et seq.

***State law references--**Definitions relating to alcoholic beverages, OCGA section 3-1-2; definitions relating to wine, OCGA section 3-6-1.

Sec. 1-37. Purpose of article.

This article has been enacted in accordance with a plan designed for the purposes, among others, to promote the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of malt beverages, to protect and preserve schools and churches, to give effect to land use regulations, and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, traffic in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values.

***State law reference--**Malt beverages, OCGA section 3-5-1 et seq.

Sec. 1-38. Penalties for violation of article or application irregularities.

(a) Any person who acquires a license or a renewal of same in violation of this article by any misrepresentation or fraudulent statement shall be deemed guilty of an offense against the Town and upon conviction thereof shall be punished as provided by the Town Charter for offenses generally.

(b) Any untrue or misleading information contained in, or material omission from an original, renewal or transfer application for a retail malt beverage license shall be cause for the denial thereof, or if granted, for the revocation of such license.

***State law reference--**Violations of alcoholic beverage law, OCGA sections 3-1-4, 3-3-9.

Sec. 1-39. Retail licensee prohibited from having direct financial interest in wholesale malt beverage business.

No person shall hold a retail license who also has any direct financial interest in any wholesale malt beverage business.

Sec. 1-40. Personal restrictions on interest in retail license.

(a) For the purposes of this section, the word "family" shall be deemed to include any person related to the holder of such license within the first degree of consanguinity or affinity as computed according to the civil law.

(b) It shall be unlawful for any elected or appointed official, or employee of the town, to have any whole, partial or beneficial interest in any license to operate retail malt beverage stores in the town.

Sec. 1-41. Business locations near library, schools, churches, public recreation centers; requirements.

No license shall be issued to any retailer under this article where the place of business of the licensee is located within three hundred (300) feet of a public library or publicly operated alcohol treatment center, or unless the business of the licensee is situated beyond three hundred (300) feet from any church and

beyond six hundred (600) feet from any property line of any school ground, college campus, or publicly owned recreation center.

State law reference--Sales of alcoholic beverages near churches, school buildings, etc., OCGA section 3-3-21.

Sec. 1-42. Location near private residence; distance requirements; "private residence" defined.

(a) No license shall be issued under this article to any location which is within 100 feet of any private residence, such distance to be measured from the nearest building wall of the proposed retail malt beverage store to the nearest point of the residential building.

(b) A "private residence," for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

Sec. 1-43. Zoning requirements for business location.

No license to engage in the sale of malt beverages shall be issued for sales of alcoholic beverages unless the site of sales has been zoned in compliance with the zoning laws of the town.

DIVISION 2. LICENSE*

Sec. 1-44. Qualifications of applicant.

(a) No retail license required by this article shall be granted to any applicant who is not a citizen of the United States or a permanent resident alien, as defined by the immigration and nationality laws of the United States, and who has not resided continuously in this state for one (1) year next preceding the year for which application is made. Where the applicant is a corporation, it must have been previously licensed to conduct business in the state for a period of one (1) year, and the license will be issued to the corporation. If the applicant is a partnership, the within requirements shall apply to all the partners.

(b) All applicants for licenses must attach to their application evidence of their good character. No original license shall be issued to any person, partnership, corporation, or other entity, where any individual having an interest either as owner, partner, stockholder, directly or indirectly beneficial or absolute, or his spouse, shall have been convicted or shall have given a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or for violation of any county, city, or town ordinance, except traffic violations.

Sec. 1-45. Application--Contents.

(a) All applications for licenses, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 1-1 in retail packaged malt beverage stores.) This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged malt beverage, together with any interest each person or any member of his immediate family has in any other retail packaged spirituous liquor store or malt beverage store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and buildings) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail packaged malt beverage store is located.

(5) Any other information called for by the town's mayor and council.

(b) Any change in any relationship as declared pursuant to this ordinance must be filed with the mayor and council when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for revocation of any license, permit or privilege issued, based on the application containing such declaration, by the town mayor and council.

Sec. 1-46. Same--Property survey.

All applications under this division shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed premises and stating the straight line distance from the proposed premises where the licensed sales are to occur, to the building and property lines of the nearest church, school, college campus, residence, and publicly owned recreation area, library and alcohol treatment center within eight hundred (800) feet of such premises of applicant.

***State law references--**Local powers as to alcoholic beverage licenses, OCGA section 3-3-2; local malt beverage license, OCGA section 3-5-40 et seq

Sec. 1-47. Physical requirements of applicant's premises.

(a) No license shall be granted to a retailer, under provisions of this division, unless the front entrance to the premises is clearly visible from a public street; however, this restriction shall not apply where the licensee is a hotel, motel, private club, or where licensee's location is in a shopping center or multiple-story business building.

(b) Where a building in which a retailer intends to operate under the provisions of this article is, at the time of the application for such license, not in existence or not yet completed, a license may be issued for such location provided the plans for the proposed building clearly show a compliance with the other provisions of this article. No sales shall be made from such establishment until it has been completed in accordance with the plans and is in conformity with all the other provisions of this article.

Sec. 1-48. Notice of application for license.

All persons desiring to engage in the sale of malt beverages at retail in the town shall give notice of the purpose of making such application by advertisement, after a date for a public hearing is set pursuant to section 1-50, in at least two (2) consecutive issues of the legal organ of Fayette County, which notice shall contain a particular description of the location of the proposed malt beverage business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers and all stockholders. The advertisement referred to herein shall be of type not be smaller than ten-point capital and lower case and shall be at least a one-inch, two-column advertisement.

Sec. 1-49. Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged malt beverages at retail and all applications for renewal of such new licenses shall be investigated by the town clerk or other designee of the mayor and council. No such new or renewal license shall be acted upon by the mayor and council or on behalf of the mayor and council until the town attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the town's investigative designee, no violation exists as to any town ordinance in effect as of the date of the rendering of such opinion. All applicants for new or renewal licenses shall furnish to the mayor and council or its designee all data, information and records requested of them by the same. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request shall serve, ipso facto, to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package malt beverages at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the

mayor and council, the town attorney, and/or other designee(s) of the mayor and council, as to any facts considered by the interrogator pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the mayor and council, town clerk, the town attorney or other designee(s) of the mayor and council, any person requested by such proposed interrogator in the ascertainment of the facts relative to the application. Failure to produce such persons within thirty (30) days after being requested to do so shall result, ipso facto, in the dismissal of the pertinent application for license.

Sec. 1-50. Public hearing on application.

All applications for licenses for the retail sale of malt beverages shall be acted upon by the mayor and council after a public hearing after advertisement as required by law, such advertisement to be made as provided in section 1-48 foregoing, and proof of same furnished to the mayor and council prior to the hearing.

Sec. 1-51. Grant of application.

All applications to engage in the sale at retail of malt beverages meeting the standards of this division shall be granted unless some specific cause related to location, traffic condition or other environmental factor shall justify refusal. In such case, the applicant shall be entitled to file a new application for a license at an eligible location without loss of any part of his application or license fee.

Sec. 1-52. Annual license fee schedule.

(a) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail as described herein shall be as follows:

(1) The sum of five hundred dollars (\$500.00) per annum.

(2) The sum of one hundred dollars (\$100.00) shall be paid at the time an original application is filed to cover investigative costs, which shall be credited against the first annual license fee upon grant of a license. This fee is not refundable.

(b) The annual license fee for the privilege of engaging in the wholesale malt beverage business within the town shall be one hundred dollars (\$100.00) per annum.

(c) All renewal license fees shall be paid between January first and January twentieth each year.

Sec. 1-53. Issuance of license.

(a) All licenses must be obtained and fees paid not later than two (2) weeks from the date of the approval of the application by the mayor and council; and, if not so obtained, the approval granted by the mayor and council shall be void.

(b) When a license has been approved, the required fee shall be paid to the town and a license issued.

Sec. 1-54. Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal, he shall be entitled to a refund of the license fee, less the investigative fee as required in section 1-52(a)(2), plus an additional charge of twenty-five dollars (\$25.00) to cover clerical costs. Such refund may be made by authority of the mayor and council.

Sec. 1-55. Terms of license.

No license shall be issued for less than a calendar year period. In case of the revocation or surrender of such license before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

Sec. 1-56. Business to be opened within nine months from license issuance; effect of failure.

(a) All holders of licenses for the retail sale of malt beverages must, within nine (9) months after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license.

(b) Failure to open the establishment and begin the sale as referred to above within the nine-month period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

Sec. 1-57. Effect of failure to operate business for nine consecutive months.

Any holder of a license for the retail sale of malt beverages who shall begin the operation of the business and sale of the product or products as authorized in the license but who shall, for a period of nine (9) consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license shall, upon completion of the nine-month period, automatically forfeit his license, which license shall, by virtue of failure to operate, be canceled without the necessity of any further action of the mayor and council.

Sec. 1-58. Transfer of license.

Licenses issued under this division may not be transferred to another licensee, nor shall such license be used at another location.

Sec. 1-59. Suspension or revocation of license.

(a) Whenever the state shall revoke any permit or license to sell at retail any malt beverages, the town license to deal in such products shall thereupon stand automatically revoked without any action by the mayor and council or any town officer.

(b) No license which has been issued or which may hereafter be issued by the town to any person as a retail dealer in malt beverages shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon at least a three-day written notice to the holder of such license.

(c) "Due cause" for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or the violation of any state or federal law, or the violation of any county or town ordinances, other than traffic ordinances, which the mayor and council deem to render the licensee an improper holder of such license.

(d) Such hearings shall be conducted by the mayor and council.

(e) In the event of revocation, no refund of any portion of the license shall be made.

Sec. 1-60. Renewal of license.

(a) The renewal of an existing alcoholic beverage license shall be applied for no later than November 1 of the year preceding the year for which the renewal is sought and shall be dependent upon proof that the licensee meets all requirements upon which the original application for license was granted.

(b) Licensees must provide at the time of application for renewal of license, an affidavit substantiating their compliance with the residency requirements set forth in this article.

(c) Upon applying for license renewal, licensee(s) must file an updated application as though for an original license, showing current facts and status as to all categories of information required in the licensee's application last filed with the town.

DIVISION 3. OPERATING REGULATIONS

Sec. 1-61. Front window display.

Each person licensed to sell malt beverages at retail shall have printed on the front window of the licensed premises the inscription "Town Retail License No. _____" in uniform letters not less than four (4) inches in height.

Sec. 1-62. Exterior advertisement of malt beverages prohibited.

No sign of any kind, painted or electric, advertising any malt beverages shall be permitted on the exterior of any licensed premises.

Sec. 1-63. Interior visibility required; license prohibited in restaurant, etc.

(a) No exterior screen, blind, curtain, partition, article or thing which shall prevent a clear view into the window or upon the doors of any retail malt beverage store shall be maintained, and no booth, screen, partition or other obstruction to clear view of alcoholic beverage stocks shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

(b) No retail malt beverage license or alcoholic beverage sales shall be allowed in, or in connection with, any restaurant, cafe or eating place, nor in the same room where a bar or soda fountain is maintained for the dispensing and sale of soft drinks or other beverages.

Sec. 1-64. Business hours and days.

(a) Retail dealers in malt beverages shall not engage in the sale of such liquors except between the hours of 7:00 a.m. and 11:45 p.m. on weekdays and shall not permit their places of business to be opened for the sale of malt beverages on Sundays, election days, and Christmas Day.

(b) An "election day", for the purposes of the sale of malt beverages, means that period of time beginning with the opening of the polls and ending with the closing of the polls.

State law reference--Sale of alcoholic beverages on Sundays, election days and Christmas day, OCGA section 3-3-20.

Sec. 1-65. Wholesale deliveries of malt beverages.

It shall be unlawful to make wholesale deliveries of malt beverages except in the store or department of the store in which such beverages are sold. Such deliveries may only be made between the hours of 7:00 a.m. and 7:00 p.m. within the same calendar day.

State law reference--Persons to whom malt beverages may be sold by wholesale dealers, OCGA section 3-5-26.

Sec. 1-66. Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the malt beverages offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having four (4) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where malt beverages are exhibit for sale.

Sec. 1-67. Employees; reports to police; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where malt beverages are sold. No retail licensee shall employ in any premises used for the sale of malt beverages any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of : (1) a felony, or (2) of any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell malt beverages to file with the mayor and council the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in such information must be filed with the mayor and council within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the mayor and council. A twenty dollar (\$20.00) investigative fee shall be paid by the licensee for each new employee.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-inch-square photograph of such employee for town records.

(d) No licensee shall allow any person to engage in the sale of malt beverages prior to the completion of a satisfactory investigation by the mayor and council. Licensees in violation of this section shall be subject to a fine or administrative penalty of two hundred fifty dollars (\$250.00) per employee engaged in such practice, and may suffer suspension or revocation of his license.

State law reference--Dispensing, serving, selling, etc., of alcoholic beverages by persons under eighteen years of age, OCGA section 3-3-24.

Sec. 1-68. Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) All premises licensed hereunder shall conform at all times with all fire regulations of the county and subject to inspection by the Fayette County fire department.

Sec. 1-69. Consumption or opening on premises; posting of sign.

(a) It shall be unlawful to consume any malt beverages or to open any container of malt beverages on the premises licensed under this article or in any parking area associated or identified with the licensed premises.

(b) The license holder shall display at any entrances or exits to the licensed premises a sign which shall state that it is unlawful to consume any malt beverages or to open any container of malt beverages on the licensed premises or any parking area adjacent thereto. Such sign or signs shall be placed in such a manner as to be visible from any parking area adjacent to the licensed premises.

(c) It shall be unlawful for any license holder to permit, allow or acquiesce in the consumption of any malt beverages or the opening of any container of malt beverages on the licensed premises or any parking area associated or identified with the licensed premises.

Sec. 1-70. Sales on certain premises; excepted.

It shall be unlawful to sell malt beverages on any business-licensed premises wherein less than fifty (50) percent of the total gross revenue for any year is derived from staple foodstuffs, household supplies, meats, produce, dairy products, gasoline and other petroleum products.

ARTICLE III. EXCISE TAXES*

Sec. 1-71. Tax on sales of malt beverages.

In addition to all other taxes or license fees heretofore imposed upon dealers in the town engaged in the business of selling malt beverages under state law, there is imposed and levied upon all such dealers within the town an excise tax to be based, computed and collected as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six dollars (\$6.00) on each container sold containing not more than fifteen and one-half (15-1/2) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15-1/2) gallons;

(2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents (\$0.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

***State law references**--Local malt beverage excise tax, OCGA section 3-5-80 et seq.; local wine excise tax, OCGA section 3-6-60.

Sec. 1-72. Tax on wholesale sales of vinous liquors.

In addition to all other taxes or excise fees, there is hereby imposed and levied a special or excise tax upon the wholesale sales of vinous liquors, the amount of such special or excise tax to be computed on the following basis:

Wholesale dealers in vinous liquors, per liter, \$0.22 and a proportionate tax at the same rate on each fractional part of a liter.

Sec. 1-73. Payment of taxes by wholesale dealers.

(a) The special or excise tax imposed upon sales under this article shall be paid by the wholesale dealer to the mayor and council or its designee by the tenth day of each month, based upon volume sold or distributed in the town limits during the previous calendar month.

(b) The wholesale dealer herein referred to shall be subject to all the conditions set forth in this article and shall in all respects comply with this article, particularly with reference to the keeping of true and correct records of all sales and shipments and the rendering of a sworn statement of the same as is provided.

State law reference--Payment of local malt beverage tax by wholesale dealers, OCGA section 3-5-81.

Sec. 1-74. Wholesale dealers required to collect taxes from retail dealers; monthly reports.

Wholesale dealers and distributors of products regulated by this article shall make a report to the mayor and council or its designee within ten (10) days following the end of each calendar month of the total of such products sold or distributed within the town limits during the previous month, and shall accompany such report with the payment of the tax due at the above rate based upon the quantities of such products so sold the previous month. Each monthly report shall be accompanied by a sworn statement that the report is a true and correct report of all sales and shipments made within the town.

Sec. 1-75. Wholesale dealers and distributors--Records and reports.

(a) The license tax imposed in this article shall be computable and payable monthly by the tenth (10th) day of each month, covering the period of the next prior calendar month.

(b) Each wholesale dealer or distributor selling, shipping or delivering malt beverages, wines or vinous liquor to any retail dealer in the town, whether delivered to the retail dealer's place of business in the town, or elsewhere for resale in the town, shall, as a condition to the privilege of carrying on such business in the town, make a true and correct record of all sales, shipments or deliveries of such products to each retail dealer in the town and immediately transmit a true and correct copy of such record to the mayor and council or its designee. Such record shall show the name of each retail dealer to whom a sale, shipment or delivery is made, the quantity, and such other information as may be called for by the town.

Sec. 1-76. Failure to make reports.

(a) If any wholesale dealer or distributor fails or refuses to make the reports provided for in this article, the town shall notify such dealer or distributor in writing; and, if the report is not made within five (5) days from the date of said notice, the town may withdraw from the wholesale dealer or distributor the privilege of doing business in the town by revoking wholesaler's license.

(b) It shall be a violation of this article for any wholesale dealer or distributor to deliver any vinous liquor and/or malt beverages to any retail dealer in the town without making a report to the town as provided herein; which violation shall be punished as provided by law for other offenses triable under provisions of the town charter.

ARTICLE IV. SEVERABILITY

Sec. 1-77. Severability.

If any article, division, section or part of this ordinance shall be ruled unconstitutional, invalid or unenforceable from any cause by a court of competent jurisdiction, such ruling shall not invalidate any other portion of this ordinance which shall remain of full force and effect.

Duly adopted by the Mayor and Council of the Town of Woolsey regularly assembled, this 20th day of October, 1997.

/s/ Gary Laggis

Gary Laggis, Mayor

/s/ Frank Carden

Frank Carden, Town Clerk