

Chapter 3 - ALCOHOLIC BEVERAGES⁽¹⁾

Footnotes:

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Cross reference— Public intoxication, § 10-3; adult entertainment, § 10-21 et seq.

ARTICLE I. - IN GENERAL

Sec. 3-1. - Definitions.

For the purpose of this chapter, the following terms shall have the respective meanings ascribed to them:

Adequate parking: One parking space for each 50 square feet of gross floor area of the building in which the licensee operates.

Business area: Any street length between intersections where 50 percent or more is in use for business purposes.

Business or commercial premises: Any public place to which the public is directly or impliedly invited during business hours for the purpose of purchasing goods, products, or services offered thereon or for the purpose of utilizing facilities located thereon. The term "business or commercial premises" shall include any semi-public place to which the public is directly or impliedly invited, whether or not a fee is charged for entry, and which does not otherwise qualify as a "bona fide private club" pursuant to O.C.G.A. § 3-7-1(1).

Church: A permanent building where members and other persons regularly assemble for religious worship and which is publicly designated as a church, but shall not include a residence also used for religious purposes.

College: Only such state, county, city, church or other colleges as teach the subjects commonly taught in the common colleges of this state, not to include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subject are taught.

Distance: The measurement in lineal feet, by the most direct route of travel upon the ground, from the front door of the structure from which malt beverages or wine is offered for sale, in a straight line to the nearest corner of any church, library, residence or dwelling, public housing building, or hospital, or to the nearest real property line of any school, college, or public park.

Distilled spirits: Shall mean any alcoholic beverage obtained by distillation or including more than 21 percent alcohol by volume, including, but not limited to, all fortified wines.

Family: Any person related to the holder of such license within the first degree by consanguinity or affinity as determined according to civil law.

Game room: Any public place where a person is permitted to play the game of billiards and/or video games and for which a charge is made for use of equipment. "Billiards" means any of the several games played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue and shall include all forms of the game known as carom billiards, pocket billiards, and English billiards.

License: The authorization by the governing authority of Whitfield County to engage in the wholesale or retail package sales of malt beverages and/or wine, or retail sales for consumption upon the premises of distilled spirits, malt beverages and/or wine, upon the conditions set forth herein.

Licensee: A person, real or artificial, holding any class of license issued under the terms of this chapter.

Malt beverage: Fermented beverage made in whole or in part from malt or any similar fermented beverage, and containing not more than six percent alcohol by volume.

Open container: The term "open container," as used in this chapter, means any bottle, glass, can, cup, drinking device, or other vessel which contains an alcoholic beverage not in its original, sealed container. The term "open container" shall also mean the original container of any alcoholic beverage which contains an alcoholic beverage on which the original seal has been broken, the cork removed, or which is otherwise ready for consumption.

Park: Any public lands owned or controlled and operated by this county, or any county of the state, in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Private residence: A house or dwelling wherein not less than one nor more than two families customarily reside, not to include a mobile home, an apartment house having facilities for housing more than two families, a boarding or rooming house where there are five or more boarders or roomers, any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application for license, or any residence that shall be a nonconforming use in a commercial zone.

Retail sale: Selling or offering for sale malt beverages and/or wine to any member of the public, including package sales or individual sales for consumption upon the premises and including individual sales for consumption upon the premises of distilled spirits.

School: Only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools of this state, not to include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Semi-public parking facility: The term "semi-public parking facility" shall include any privately-owned area wherein motor vehicles may be parked by the public in conjunction with any business or commercial premises as defined in this chapter, including, but not limited to, any enterprise, establishment, office building, church, school, park, racetrack, golf course, shopping mall, or multiple family residential facility.

Special event: An event of limited duration, occurring upon business, commercial, or industrial premises, the parcels for which are zoned GA, C-2, C-2C, M-1, or M-2, and which does not exceed 48 hours per event, with no more than eight events by the same host or at the same parcel in any calendar year, at which the host desires to serve, in addition to other food and beverages, malt beverages, distilled spirits for beverage purposes, and/or wine to customers and/or business invitees attending the event who are not under the age of 21 within a defined area, and which otherwise qualifies for a special event license.

Special event license: The authorization by the governing authority of Whitfield County for any person then possessing a valid license issued by either Whitfield County or by the City of Dalton for the sale of malt beverages, distilled spirits for beverage purposes, and/or wine for consumption upon the premises to cater a special event away from its premises.

Wholesaler: Any person engaged in distributing or selling to retailers for the purpose of resale.

Wines: Wines manufactured from fruits and berries and produced by natural fermentation (whether fortified or not) having an alcoholic strength of not more than 22 percent alcohol by volume.

(Code 1979, § 7-3-1; Ord. of 6-11-85(1), § 1; Ord. of 11-8-88; Ord. of 2-28-95; Ord. of 12-17-01, § 1; Ord. of 12-9-02, § 1; Ord. of 10-13-03, § 1; Ord. of 4-11-05, § 1; Ord. of 12-8-08(1), § 1; Ord. of 4-22-13, § 1; Ord. No. 2015-0518, §§ 1, 2, 5-18-15)

Cross reference— Definition of "due course," § 3-53(a).

State Law reference— Definitions, O.C.G.A. § 3-1-2.

Sec. 3-2. - Compliance with chapter required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any malt beverage, distilled spirit, or wine without first having complied with the provisions of this chapter.

(Code 1979, § 7-3-3; Ord. of 12-8-08(1), § 2)

Sec. 3-3. - Applicability to territory outside municipalities only.

The terms and provisions of this chapter shall apply only to the unincorporated areas of this county.

(Code 1979, § 7-3-4)

Sec. 3-4. - Distance of business from residences.

No license hereunder shall be issued for any location which is within a 200-foot distance to the nearest residence or dwelling without the petitioner presenting sworn affidavits from each of the surrounding property owners within the 200- foot distance indicating their consent to such a license; provided, however, this section shall not apply to renewals or existing licenses, or to transfers from one licensee to another in an existing location; provided, further, that where a licensee is, or plans, to engage in the sale of malt beverages or wine which is not incidental to the sale of groceries or convenience items in which there is or will be an inventory (at the time of commencement of business by the licensee) located in the building and at the location for which the license is issued of an amount having a retail value of not less than \$7,500.00, then in such event, no license shall be issued to any location which is within a 1,000-foot distance to the nearest residence or dwelling.

(Code 1979, § 7-3-30; Ord. of 1-14-86(2); Ord. of 10-13-03, § 2)

Sec. 3-5. - Distance of business from schools, churches, etc.

No license shall be issued hereunder where the place of business of the applicant is located within a distance of 600 feet of the nearest public library or branch of a public library or within a distance of 600 feet of the nearest church or public park, or within a distance of 600 feet of a school ground or college campus; provided, however, that at a public hearing the board of commissioners may waive the distance requirements of this section if satisfactory evidence shall be produced before the board of commissioners that no adverse effect to property values or the use of the facilities for the purposes aforesaid would occur if the license were granted.

(Code 1979, § 7-3-31; Ord. of 10-13-03, § 3)

State Law reference— Location restrictions, O.C.G.A. §3-3-21.

Sec. 3-6. - Consumption upon the premises—Seating capacity.

In addition to obtaining a license, as set forth herein, any business establishment selling distilled spirits, malt beverages, and/or wine to the general public for consumption upon the premises shall have a total seating capacity of not less than 50 persons.

(Ord. of 12-9-02, § 2; Ord. of 12-8-08(1), § 3; Ord. of 11-18-10(1), § 1)

Sec. 3-7. - Same—Maintain health department food service permit.

In addition to obtaining a license, as set forth herein, any business establishment selling distilled spirits, malt beverages, and/or wine to the general public for consumption upon the premises shall maintain a valid Whitfield County Health Department Food Service Permit at all times. Revocation of such health department food service permit shall automatically revoke any license granted hereunder immediately.

(Ord. of 12-9-02, § 3; Ord. of 12-8-08(1), § 4)

Sec. 3-8. - Same—Malt beverage, distilled spirits, and/or wine sales to be ancillary to primary business of serving food.

Not less than 80 percent of the gross receipts of any business establishment selling distilled spirits, malt beverages, and/or wine to the general public for consumption upon the premises shall be generated by the sale of food products. Sales of distilled spirits, malt beverages, and/or wine in such establishments shall be ancillary to the primary business of serving food products to the general public. With respect to a restaurant located within a hotel or other facility offering overnight accommodations to the traveling public, "gross receipts" for purposes of this section shall be measured only with respect to the food service operation of the hotel and not the entirety of the hotel operation.

The licensee shall be required, at least annually, but more often if reasonably required by the Whitfield County Administrator, to produce accurate financial records and/or other documents as reasonably required to demonstrate compliance herewith. Any failure to produce such records timely shall be sufficient cause for the revocation of a license.

(Ord. of 12-9-02, § 4; Ord. of 12-8-08(1), § 5)

Sec. 3-9. - State laws and regulations incorporated.

All laws, rules, and regulations relating to the sale and/or distribution of alcoholic beverages in Georgia, as revised and set forth by the General Assembly and/or by the state revenue department, are hereby incorporated herewith and made a part hereof as if fully set forth herein. To the extent that any provision of this chapter shall be inconsistent with any law, rule, or regulation of the State of Georgia, the provision which provides stricter requirements shall control.

(Ord. of 12-9-02, § 5)

Sec. 3-10. - Employment of underage persons.

No licensee hereunder shall allow a person in his or her employment who is under 21 years of age to dispense or serve any malt beverage, distilled spirits, and/or wine for consumption upon the premises. However, the provisions of this section shall not prohibit food service establishments from employing persons under 21 years of age for tasks such as greeting and seating customers, taking orders for food and non-alcoholic beverages, delivering food and nonalcoholic beverages to the table, or bussing tables, nor shall the provisions of this section prohibit food service establishments from employing persons under 21 years of age for tasks such taking orders for alcoholic beverages, as long as such employees are at least 18 years of age. Further, the provisions of this section shall not prohibit persons under 21 years of age who are employed in supermarkets, convenience stores and other licensees from selling or handling malt beverages and/or wine sold in sealed packages for consumption off the premises.

(Code 1979, § 7-3-62; Ord. of 4-10-90; Ord. No. 12-9-02, § 6; Ord. of 12-8-08(1), § 6)

Sec. 3-11. - Sale to minors, incompetents, drunkards prohibited.

No licensee hereunder shall sell any malt beverage or wine to any person under the age prescribed as a minimum age by state law, or to any person in an intoxicated condition, or to any person known to such licensee or such licensee's employee to be an habitual drunkard, or to any person known to such licensee or such licensee's employee to be of intemperate habits or of unsound mind. Nor shall any licensee permit the consumption of such beverages on the licensed premises by any person within the above restrictions.

(Code 1979, § 7-3-63)

State Law reference— Sales to intoxicated persons, O.C.G.A. § 3-3-22; alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 3-12. - Purchase, consumption or possession by or for underage persons.

- (a) It shall be unlawful for any person who is underage to consume alcoholic beverages under the law of the State of Georgia to purchase, drink, or possess any malt beverage, distilled spirits, or wine.
- (b) It shall be unlawful for any person to keep or maintain a place where persons who are underage to consume alcoholic beverages under the laws of the State of Georgia knowingly are allowed and permitted to come and purchase, drink, or possess any malt beverage, distilled spirits, or wine.
- (c) It shall be unlawful for any parent or other person to buy any malt beverage, distilled spirits, or wine and furnish the same to any person who is under age to consume alcoholic beverages under the laws of the State of Georgia.
- (d) It shall be the responsibility of the licensee to examine the identification of patrons to be certain that such persons are of legal age. A driver's license may be accepted by the licensee or licensee's employee as evidence of age.

(Code 1979, § 7-3-64; Ord. of 4-10-90; Ord. of 12-8-08(1), § 7)

State Law reference— Alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 3-13. - Misrepresentation of age by underage persons.

It shall be unlawful for any person who is underage to consume alcoholic beverages under the law of the State of Georgia to misrepresent his or her age in any manner whatsoever.

(Code 1979, § 7-3-65; Ord. of 4-10-90)

State Law reference— Alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 3-14. - Sales to underage persons prohibited; loitering prohibited.

No licensee, employee, or agent of any licensee, or any other person shall sell, allow the sale to, or allow the consumption of any malt beverage, distilled spirits, and/or wine to any person who is then under the age of 21 years. No licensee shall allow any person under the age of 21 years to loiter about the premises of the licensee unless such person is accompanied by a parent or legal guardian.

(Code 1979, § 7-3-66; Ord. of 4-10-90; Ord. of 12-9-02, § 7; Ord. of 12-8-08(1), § 8)

State Law reference— Alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 3-15. - Hours of operation.

- (a) *Retailers—On premises consumption:* Licensees for the retail sale of malt beverages, distilled spirits, or wine shall not engage in the sale of malt beverages, distilled spirits, or wine between the hours of 11:59 p.m. Saturday and 12:30 p.m. Sunday nor between the hours of 11:59 p.m. and 7:00 a.m. Sunday through Saturday.
- (b) *Retailers—Package sales:* Licensees for the retail sale of malt beverages or wine shall not engage in the sale of malt beverages or wine between the hours of 11:59 p.m. Saturday and 12:30 p.m. Sunday, nor between the hours of 11:30 p.m. Sunday and 7:00 a.m. Monday, nor between the hours of 11:59 p.m. and 7:00 a.m. Monday through Saturday.
- (c) *Wholesalers:* Wholesalers licensed hereunder shall be permitted to operate during all hours each day exclusive of Sunday.
- (d) *Within two hundred fifty (250) feet of polling places on election day:* Except as otherwise required by federal or state law or as otherwise provided herein, no licensee shall permit a licensed place of business to sell malt beverages, distilled spirits, or wine within 250 feet of any polling place or of the outer edge of any building within such polling place is established on primary or election days, between the hours of 7:00 a.m. and 7:00 p.m., or any other additional hours during which polls are open for voting purposes.

(Code 1979, § 7-3-67; Mo. of 11-11-80; Ord. of 12-17-01, §§ 3, 4; Ord. of 12-8-08(1), § 9; Ord. of 12-8-14, § 1)

State Law reference— Authority as to sale on Sunday, O.C.G.A. § 3-3-7; prohibited sales on Sunday, election day, and Christmas, O.C.G.A. § 3-3-20.

Sec. 3-16. - Sanitation, good order, and fire protection regulations; inspection.

- (a) All licensed premises shall be kept clean and in proper sanitary condition.
- (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.

(Code 1979, § 7-3-68)

Sec. 3-17. - Signage.

- (a) All licensees hereunder shall post, in a manner which complies with O.C.G.A. § 3-1-5 in a conspicuous place, a sign which clearly reads: "Warning: Drinking Alcoholic Beverages during pregnancy can cause birth defects."
- (b) Any licensee who fails or refuses to post such sign as required by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$100.00 for each violation.
- (c) All other signage shall be otherwise governed by applicable federal, state, or local law, if any, and or applicable provisions of the Whitfield County Zoning Ordinance.

(Code 1979, § 7-3-70; Ord. of 12-17-01, § 5; Ord. No. 12-9-02, § 8)

Sec. 3-18. - Requirements for wholesalers generally.

All wholesalers which have their principal place of business in the unincorporated portions of Whitfield County shall be licensed pursuant to the provisions of this chapter and shall comply with same before selling or delivering any malt beverage, distilled spirit, or wine to any establishment within Whitfield County. All wholesalers which do not maintain their principal place of business in the unincorporated portions of Whitfield County, but which have otherwise established a trade nexus within the unincorporated portions of Whitfield County, and thus do business within Whitfield County, shall be licensed pursuant to the provisions of this chapter and shall comply with same before they can sell or deliver any malt beverage, distilled spirits, or wine to any establishment in Whitfield County, except that such wholesalers shall not be required to meet the residency requirements set forth in section 3-38 herein. Deliveries shall be made in conveyances owned and operated only by wholesalers licensed as set out in this section, and shall at all times when deliveries are being made subject to inspection by any duly authorized authority of Whitfield County.

(Code 1979, § 7-3-71; Ord. of 10-13-03, § 4; Ord. of 12-8-08(1), § 10)

Sec. 3-19. - Retailers to purchase from properly licensed wholesalers only, etc.; exception.

Retail dealers in malt beverages, distilled spirits, and wine licensed under the applicable provisions of this chapter shall neither buy nor accept deliveries from wholesalers or other persons offering the same for sale except from wholesalers duly licensed under such provisions or otherwise exempt. Such retail dealers shall accept only deliveries directly to the premises for which the license was issued, and by a conveyance owned and operated by a wholesaler licensed, as required by this chapter; except, however, upon written request to the board of commissioners and upon the granting of permission by the board of commissioners in writing, deliveries may, under unusual circumstances, be made otherwise upon terms and conditions as prescribed by the board of commissioners as to each such delivery.

(Code 1979, § 7-3-72; Ord. of 10-13-03, § 5; Ord. of 12-8-08(1), § 11)

Sec. 3-20. - Employment of persons with prior convictions.

No licensee shall employ in any premises for the sale of malt beverages or wine any person in any capacity whatsoever who has been convicted in this county or any other county within ten years immediately prior to the application for employment of any crime involving moral turpitude.

(Code 1979, § 7-3-73)

Sec. 3-21. - Possession of open container prohibited; exception.

- (a) It shall be unlawful for any person, while within the unincorporated portion of Whitfield County, Georgia, to have in his or her possession any alcoholic beverage, including, but not limited to malt beverages, distilled spirits, or wine, in any open container while on or in any:
 - (1) Government-owned building, structure, park, or premises;
 - (2) Business or commercial premises, except such premises which have in force and effect a valid license, as set forth hereunder, for the consumption upon the premises of malt beverages, distilled spirits, and/or wine;
 - (3) Public or private road, street, right-of-way, or sidewalk; or
 - (4) Public or semi-public parking facility.
- (b) It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while an operator or occupant of any motor vehicle or motorized vehicle, whether such vehicle is underway or not, while such vehicle is on the public roadways, streets, rights-of-ways, or in any public or semi-public parking facility within the unincorporated portion of the county. An open

container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger or is not located in a locked glove compartment, locked trunk, or other locked non-passenger area of the vehicle.

- (c) The preceding subsection shall be read in conjunction with O.C.G.A. § 40-6-253(d) and shall not be preempted by O.C.G.A. § 40-6-253 to the extent that the restrictions on the possession of open containers of alcoholic, malt, or wine beverages imposed in subsection (b) above are more stringent than those imposed by O.C.G.A. § 40-6-253.
- (d) Subsection (b) shall also apply to any boats or water crafts on any public waterways located within the unincorporated portion of the county.
- (e) Subsection (b) shall not apply to passengers of a limousine, bus, motor coach, or other similar vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for hire and such driver holds a valid commercial driver's license pursuant to state law or that of any other state.
- (f) It is not the intention of this section to prevent, preclude, or limit the consumption of otherwise lawful alcoholic beverages on strictly private property or within strictly private dwellings located within the unincorporated portions of the county.

(Ord. of 2-28-95; Ord. No. 12-9-02, §§ 9, 10; Ord. of 4-11-05, § 2; Ord. of 12-8-08(1), § 12)

Sec. 3-22. - Use of proceeds of chapter.

The revenue generated pursuant to this chapter shall be used and spent only for those purposes which would benefit the citizens in the unincorporated area of the county. In no event shall any of the proceeds generated under this chapter be used or spent in any fashion which would benefit both the citizens within and without the unincorporated limits of the county.

(Code 1979, § 7-3-81(d))

Sec. 3-23. - Penalties for violation of chapter.

Pursuant to the provisions of O.C.G.A. § 36-1-20(b), except as specifically set forth herein, the maximum punishment for the violation of any section or provision of this chapter shall not exceed a fine of \$1,000.00 or imprisonment for 60 days, or both.

(Ord. of 9-12-89; Ord. No. 12-9-02, § 11)

Sec. 3-24. - Special event license.

Any person possessing a valid license issued either by Whitfield County or by the City of Dalton for the sale of malt beverages, distilled spirits for beverage purposes, and/or wine for consumption upon the premises may apply to the Whitfield County Board of Commissioners for a special event license, upon the payment of the fee as set forth hereinafter. The application shall describe the nature of the proposed special event, including the anticipated number of persons attending; the amount of malt beverages, distilled spirits for beverage purposes, and/or wine expected to be served; the name, address, and telephone number of the host of the event and of the proposed location; a certification by the Whitfield County Building, Zoning, and Development Department that the proposed location of such special event is currently zoned GA; C-2; C-2C; M-1; or M-2; a certification that not less than one security officer acceptable to the sheriff shall be present at all times during the special event; certification that no persons under the age of 21 years will be served any malt beverages, distilled spirits for beverage purposes, and/or wine; a map or scale drawing, clearly delineating the outermost boundaries of the event, including specifically any public roads or rights-of way in which the consumption of malt beverages, distilled spirits for beverage purposes, and/or wine is proposed; and all such other and further information as shall be reasonably requested by Whitfield County

to ensure the protection of the health, safety, and welfare of the citizens of Whitfield County. It shall be unlawful for any person to host, engage in, or attend any special event at which malt beverages, distilled spirits for beverage purposes, and/or wine are served and/or consumed without the issuance of a special event license at least one week before the scheduled event.

(Ord. of 4-22-13, § 2; Ord. of 5-13-13, § 1; Ord. No. 2015-0518, § 3, 5-18-15)

Secs. 3-25—3-29. - Reserved.

ARTICLE II. - LICENSES

Sec. 3-30. - License constitutes grant or privilege.

- (a) All licenses herein shall be a mere grant or privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this chapter and other ordinances and resolutions of the county relating to such business.
- (b) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled by the Board of Commissioners of Whitfield County, and is subject to any future ordinances eliminating notice and hearing prior to revocation with or without cause."

(Code 1979, §§ 7-3-42, 7-3-61)

Sec. 3-31. - Separate license for each place of business.

A person doing business at more than one place shall take out and pay for a separate license for each place of business.

(Code 1979, § 7-3-21)

Sec. 3-32. - Application; filing; form; contents.

- (a) All persons 25 years of age or older desiring to obtain a license required under this chapter shall make written application to the board of commissioners for such privilege upon forms prepared and approved by the board of commissioners. The application shall state the name and address of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and stockholders; and such other and further information as may be required by the board of commissioners, and be sworn to by the applicant or agent thereof, including, but not limited to, a complete set of fingerprints, to be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center for any instance of criminal activity during the two years immediately preceding the date of the application.
- (b) All applicants shall furnish all data, information and records requested of them by the board of commissioners or its authorized designee(s), and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicant, by filing an application, agrees to produce for oral interrogation any person(s) requested by the board of commissioners, or its designee(s), or the county attorney, who are considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of such application.

- (c) All applications for licenses shall be made to the board of commissioners or its authorized designee(s) and shall be accompanied by a deposit equal to the license fee applicable to the license for which application is made, as hereinafter provided. In the event that the application is denied, then the deposit less the sum of \$50.00, which shall be retained to defray application and investigation expenses, shall be returned to the applicant.

(Code 1979, § 7-3-22; Ord. of 12-17-01, § 6; Ord. of 10-13-03, § 6)

Sec. 3-33. - Submitting plans; architectural standards; compliance with codes and zoning.

All applicants for licenses shall furnish sealed architectural plans and renderings of the proposed premises. Such premises shall be constructed, renovated, or built so as to be equal to or better than the surrounding neighborhood. The applicant shall comply with all building and health codes of Whitfield County, including, but not limited to, the Whitfield County Subdivision Regulations, the Whitfield County Zoning Ordinance, and the Whitfield County Building Ordinance.

(Code 1979, § 7-3-23; Ord. of 12-17-01, § 7)

Sec. 3-34. - Notice of intent to engage in business.

- (a) All applicants for licenses hereunder shall give notice of the purpose of making such application by advertisement at least one time a week, for two consecutive weeks, in the daily paper published in the county in which the legal advertisements of the county are carried, which notice shall contain a particular description of the location of the proposed 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 date and time the board of commissioners will hear the application. 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 column.
- (b) The running of the advertisement required herein in a newspaper may be concurrent with the time after the application for license is filed, and if neither of the two required advertisements is made before the filing of the application, the application shall state that the advertisement is being made.
- (c) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following:
 - (1) If applying for a package sales license:
"Beer and/or Wine Package Sales License Applied For. A hearing before the Whitfield County Board of Commissioners shall be held on the _____ day of _____ / _____ / _____, 20 _____. All interested persons take notice."
 - (2) If applying for a license for retail sales for consumption upon the premises, as follows:
"Liquor, Beer, and/or Wine Restaurant Sales License Applied For. A hearing before the Whitfield County Board of Commissioners shall be held on the _____ day of _____, 20 _____. All interested persons take notice;"

Each sign shall be not less than 24 inches by 18 inches, and shall face toward all public streets, sidewalks, or other public property which adjoin or adjoins the location so as to be clearly legible by persons using such public area. The notice required herein shall be placed on the property for 14 consecutive days, beginning the day of the first advertisement as required by subsection (a) above.

(Code 1979, § 7-3-24; Ord. of 12-17-01, § 8; Ord. No. 12-9-02, § 12; Ord. of 12-8-08(1), § 13)

Sec. 3-35. - General qualifications of applicant.

No license hereunder shall be granted where the application or the evidence on a hearing before the board of commissioners shows any of the following conditions to exist:

- (1) That the applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made;
- (2) That the applicant has had any license issued under the police powers of any county or other governmental subdivision previously suspended or revoked;
- (3) That the applicant, as a previous holder of a license to sell malt beverages or wine, has violated any law, regulation or ordinance relating to such business within a ten-year period immediately preceding the date of application.

(Code 1979, § 7-3-25; Ord. of 10-13-03, § 15)

Sec. 3-36. - Investigation; report.

All applications required by this chapter shall be investigated by the sheriff's department, which shall report its recommendation to the board of commissioners, and a copy shall be filed with the clerk of the board of commissioners.

(Code 1979, § 7-3-26; Ord. of 10-13-03, § 15)

Sec. 3-37. - Public hearing; approval by board of commissioners.

- (a) All applications for licenses hereunder shall be acted upon by the board of commissioners after a public hearing, after advertisement as required herein. No license shall be issued until it has been approved by the board of commissioners.
- (b) All decisions approving, denying, suspending, or revoking a license shall be in writing, with the reasons therefor stated, and shall be mailed or otherwise delivered to the applicant at the address given in the application.
- (c) If any applicant is aggrieved by a decision of the Whitfield County Board of Commissioners, the applicant may, within 30 days after the mailing of notice of the action of the board of commissioners, file a written request with the Whitfield County Administrator for a hearing before the board of commissioners. Such hearing shall be scheduled for the next regularly scheduled meeting of the board of commissioners after receipt of such request, or as agreed by both parties. At such hearing the applicant or his or her legal counsel shall be afforded the opportunity to present evidence and to cross-examine any opposing witnesses. Any further appeal shall be by Writ of Mandamus to the Whitfield County Superior Court.

(Code 1979, § 7-3-27; Ord. of 12-17-01, § 9; Ord. of 10-13-03, § 7)

Sec. 3-38. - Citizenship and residence requirements.

- (a) No license for the sale of malt beverage or wine shall be granted to any applicant who is not a citizen of the United States and who has not been a resident of Whitfield County for a period of at least 30 days prior to filing the application; provided, however, the residency within Whitfield County by an applicant shall not be a requirement if the applicant shall designate an individual who has been a resident of Whitfield County for more than 30 days preceding the filing of the application, who shall be responsible for any matter relating to the license.
- (b) If the applicant is a partnership, the same requirements pertaining to corporations shall apply.

- (c) Where the applicant is a corporation, the corporation shall designate an officer or employee who shall be a resident of this county and who shall hold the license for the benefit of the corporation. The corporation may designate a successor licenseholder who shall meet the requirements of this section, notifying in writing the board of commissioners, and after approval of such change by the board of commissioners, a corrected license shall be issued showing such change. All licenses held by an individual for a corporation shall be deemed held for the benefit of the corporation and shall not be the license of such individual.

(Code 1979, § 7-3-28; Ord. of 12-17-01, § 10; Ord. of 10-13-03, § 15)

Sec. 3-39. - Issuance to persons with prior convictions.

No original license for the sale of malt beverages or wine shall be issued to any person for pecuniary gain where any individual having an interest, either as owner, partner, principal, stockholder, directly or indirectly, beneficial or absolute, or any such person's spouse, shall have been convicted or shall have made a plea of nolo contendere within ten years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any municipal ordinance, including, but not limited to, any violation of law prohibiting driving a motor vehicle while under the influence of drugs or alcohol, but not including all other traffic or moving violations; the term "conviction" shall include an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond. When charged with a crime, where the violation is for a misdemeanor, forfeiture of bond, violation of a county or municipal ordinance, or where there is a plea of nolo contendere, the board of commissioners may, after investigation and deliberation, waive the same as a disqualification.

(Code 1979, § 7-3-29; Ord. of 10-13-03, §§ 8, 15)

Sec. 3-40. - Additional standards for issuance, renewal or transfer of retail license.

- (a) With respect to the issuance of licenses or the transfer or the renewal of licenses for the sale of malt beverages or wine the board of commissioners may, in its discretion, issue or deny any license, renewal or transfer of an existing store location based upon the following standards, in addition to standards otherwise ordained herein:
 - (1) Where there is evidence that, even though there is compliance with the minimum distances from schools and churches, the type and number of schools or number of churches in the vicinity causes minors to frequent the immediate areas.
 - (2) Where there is evidence that the location or type of structure could create difficulty in police supervision.
 - (3) Where there is evidence that there are no licenses granted in the area or where there is evidence that the proposed area already is adequately supplied with such licenses.
 - (4) Where there is evidence that a license for the location would be detrimental to the property values in the area.
 - (5) Where there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of adequate parking spaces for automobiles as "adequate parking" is defined in section 3-1. A licensee shall have adequate parking on the premises so as to provide parking for the customers and so as to prevent parking on the streets or adjoining property.
 - (6) Where there is evidence that alcoholic beverages have been sold to an intoxicated person or to a minor.
 - (7) Where there is evidence that the conducting of the business creates a disturbance, congregation of intoxicated persons, congregation of minors, allows minors to purchase, drink or possess

alcoholic beverages on the premises, or causes the police to answer complaints or make extra surveillance of the premises.

- (8) In addition to the above and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
- a. If the applicant is a previous holder of a license, the manner in which such applicant conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - b. The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
 - c. The number of licenses already granted for similar businesses in the trading area in the place for which the license is sought.
 - d. If applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.
- (9) Where there is evidence of prior arrest or conviction of any of the employees at the location of the licensee.
- (10) Any material omission, or untrue or misleading information contained in or left out of an original, renewal, or transfer application for a license hereunder shall be cause for the denial thereof; and if any license has previously been granted under these circumstances, such shall constitute cause for the revocation of same.
- (b) A violation of this or any other section of this chapter shall authorize the board of commissioners to suspend, revoke or place on probation, with or without conditions, the license or holder. The board of commissioners may specify conditions of operation of the license holder during any time of probation. Such conditions shall be on file with the board of commissioners. No probation shall extend over a period of more than 12 consecutive calendar months.

(Code 1979, §§ 7-3-32; 7-3-47; Ord. of 10-13-03, § 15)

Sec. 3-41. - County official, spouse, children, prohibited from interest in license.

It shall be unlawful for any elected or full-time appointed official or any employee of the county, or spouse or minor children thereof to have any whole, partial or beneficial interest as defined by state law in any license to sell malt beverages or wine in the county.

(Code 1979, § 7-3-34)

Sec. 3-42. - License to be obtained within two weeks of approval of application.

- (a) When a license has been approved and the applicant has deposited with the board of commissioners the required fee, the license shall be issued.
- (b) Notwithstanding any other section of this chapter, all fees not already remitted shall be paid not later than two weeks from the date of the approval of the application by the board of commissioners, and the permits shall be obtained at that time; and if not obtained, the permit granted by the board of commissioners shall become void thereafter.

(Code 1979, § 7-3-35; Ord. of 10-13-03, §§ 9, 15)

Sec. 3-43. - Malt beverage, distilled spirits, and wine license taxes—Levy.

- (a) There is hereby levied an annual license fee and tax for all persons in the unincorporated areas of Whitfield County for the sale of malt beverages, as follows:
 - (1) Package only \$750.00
 - (2) Wholesale 100.00
 - (3) Retail sales for consumption upon the premises 750.00
- (b) The annual license fees for the various wine licenses for unincorporated areas of Whitfield County, shall be as follows:
 - (1) Package only \$750.00
 - (2) Wholesale 100.00
 - (3) Retail sales for consumption upon the premises 750.00
- (c) There is hereby levied an annual license fee and tax for all persons in the unincorporated areas of Whitfield County for the retail sales for consumption upon the premises of distilled spirits in the amount of \$2,000.00.
- (d) The fee for a special event license for unincorporated areas of Whitfield County, shall be as follows: \$100.00 per application, nonrefundable.

(Code 1979, §§ 7-3-91(a), 7-3-111; Ord. of 12-17-01, § 11; Ord. No. 12-9-02, § 13; Ord. of 4-11-05, § 4; Ord. of 12-8-08(1), §§ 14—18)

State Law reference— Restriction on amount of malt beverage wholesaler license tax, O.C.G.A. § 3-5-43.

Sec. 3-44. - Same—Periods; no refund.

- (a) Any new license issued prior to July 1 of any calendar year shall be effective for the entire calendar year. Any renewal license, regardless of when originally issued, shall be effective for the entire calendar year and any new license issued on or after July 1 shall be effective for the remainder of that calendar year.
- (b) In the event of revocation or surrender of the license before the expiration of the calendar year, the holder shall not be entitled to receive any refund whatsoever.
- (c) Any new license applied for before July 1 of any year, regardless of issue date, shall be subject to the full annual license fee without proration. Any new license applied for on or after July 1 of any year, regardless of issue date, shall be subject to one-half the annual license fee without further proration.

(Code 1979, §§ 7-3-61, 7-3-81(c), 7-3-82; Ord. of 10-13-03, § 10)

Sec. 3-45. - Causes for mandatory denial of license.

- (a) No license shall be issued to an applicant for the same location if within 12 months immediately preceding the filing of an application one or more of the following shall have occurred:
 - (1) Applicant has had an application for the location rejected by the board of commissioners;
 - (2) The location has been rejected for any applicant;

- (3) Applicant has withdrawn, without permission of the board of commissioners, an application at any time within seven days immediately preceding the time and date set for the hearing before the board of commissioners; or
 - (4) Any application for a permit to transact any business within the control of the police powers has been denied for cause or any license has been revoked for cause by the board of commissioners.
- (b) The one-year waiting period will not apply where the applicant applies for a new location that has not been rejected within the past year.

(Code 1979, § 7-3-36; Ord. of 10-13-03, § 15)

Sec. 3-46. - Completion of proposed licensed premises.

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

(Code 1979, § 7-3-37)

Sec. 3-47. - Time limit for commencement of business; forfeiture for nonuse.

- (a) The holder of a license hereunder must within three months after the issuance of the license open for business the establishment referred to in the license unless the time is extended by the board of commissioners. Failure to open the licensed establishment within the three-month period or the extended period shall serve as an automatic forfeiture and cancellation of the unused license and no refund of license fees shall be made to the licenseeholder.
- (b) Any holder of a license hereunder who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license shall upon completion of the three-month period automatically forfeit the license, which license shall, by virtue of the failure to operate, be cancelled without the necessity of any further action of the board of commissioners.

(Code 1979, § 7-3-38; Ord. of 10-13-03, § 15)

Sec. 3-48. - License to be displayed.

Each person holding a license issued under this chapter shall display the license prominently at all times on the premises for which the license is issued.

(Code 1979, § 7-3-69; Ord. of 10-13-03, § 11)

Sec. 3-49. - Annual renewal required.

All licensees hereunder shall be required to renew their licenses annually on forms prescribed by the board of commissioners.

(Code 1979, § 7-3-39)

Sec. 3-50. - Renewal date.

Any person licensed hereunder shall be required to renew said person's license by filing an application for renewal and by paying the fee on or before January 31 of each year. Failure to pay the fee and file the application for renewal by January 31 shall cause the license to expire.

(Code 1979, § 7-3-40; Ord. of 10-13-03, § 12)

Sec. 3-51. - Applications for license renewal or transfer on existing licensed premises.

Any application for renewal or transfer of a license on an existing licensed location shall not be required to meet the distance requirements from churches, schools, private residences and other distance requirements set forth in this chapter. An application filed under this section shall meet and qualify under all other requirements of this chapter for the granting of a new license.

(Code 1979, § 7-3-41)

Sec. 3-52. - Suspension or revocation—Cause for revocation generally.

The violation of any term, condition or provision of this chapter in any particular, or as to any detail whatsoever, shall be conclusive cause for the immediate revocation of any license in accordance with the procedure provided herein.

(Code 1979, § 7-3-43(a))

Sec. 3-53. - Same—"Due cause" procedure.

- (a) No license which has been issued or which may hereafter be issued by the county to any retail dealer or wholesale dealer shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge upon which such hearing shall be held. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the board of commissioners may deem the circumstances to justify. "Due cause" for the suspension or revocation of such license shall consist of the violation of any law or ordinance regulating such business or for the violation of any state or federal law, or for any change in the area where such business is located, which change is deemed by the board of commissioners to cause such business in such area to be undesirable, or when the board of commissioners deems the operation or operators of such business to be undesirable, or any reason which would authorize the board of commissioners to refuse the issuance of a license, or any violation of this chapter.
- (b) The chairman of the board of commissioners shall suspend a license or give three days' notice that such license is subject to suspension when there is cause to believe that grounds exist for revoking a license. This action shall be reviewed at the next regular meeting of the board of commissioners, or, at the request of the license holder, a special meeting of the board of commissioners may be called within three days after such request is filed with the county administrator to affirm or to refuse the suspension after the hearing of the evidence. An accusation by a law enforcement officer shall be deemed due and sufficient cause for suspension. A license shall not be revoked except upon action by the board of commissioners, except pursuant to and in accordance with the provisions of subsection (c) of this section.
- (c) (1) By accepting a license hereunder, the licensee agrees that the sheriff's department of this county or other duly authorized law enforcement officer, upon violation of this chapter or a state law being committed in the presence of or upon information to the sheriff's department or any other duly authorized law enforcement officer, may remove from the wall of the licensed premises the license granted. The license shall be returned to the sheriff with a full report for the reasons for the removal. The sheriff's office shall within 24 hours check the facts and circumstances of the

removal, and may, at the officer's discretion return the license pending a hearing thereon. Within 72 hours thereafter, the sheriff shall make a full report in writing with recommendations to the clerk of the board of commissioners together with the action such officer has taken and a recommendation as to whether or not the license should be revoked or suspended and the reasons therefor.

- (2) If the report shall recommend suspension or revocation of the license, a hearing shall be set with the clerk of the board of commissioners and be held before the clerk with a record to be made of the proceedings, at a date not over ten days from the original seizure of the license. A notice shall be given at least three days prior to the hearing, unless waived by the holder of the license, and shall be served either personally upon the licensee, or in the event the licensee is not to be found, by leaving the same at the licensee's place of business. The hearing shall be in the nature of a show cause hearing, the licensee to show why the license should not be suspended or revoked. After a hearing and during the period, the license, if not returned by the sheriff, shall be held by the county and the alcoholic beverage business shall not be operated during such period of time.
- (3) After the hearing the clerk shall make a recommendation to the board of commissioners with findings and reasons therefor that either the licensee shall keep or have returned the license or that the license shall be suspended or revoked, and the board of commissioners shall take action upon the recommendation at its next regular meeting.

(Code 1979, § 7-3-44; Ord. of 10-13-03, §§ 13, 15, 16)

Sec. 3-54. - Same—Automatic revocation.

Whenever a state shall revoke any permit or license to manufacture or sell at wholesale or retail any malt beverages or wine, the county license to deal in such products shall thereupon be automatically revoked without any action by the board of commissioners.

(Code 1979, § 7-3-45; Ord. of 10-13-03, § 15)

Sec. 3-55. - Same—Removal of signs; no fee refund.

- (a) When any license for selling beverages is revoked, all signs indicating that such beverage may be sold or purchased shall be removed from the place of business, both outside and inside. Upon receipt by the sheriff of notice of such revocation, the sheriff shall take the necessary steps to see that this section is enforced.
- (b) In the event of revocation by the board of commissioners, the licensee shall not be entitled to a return of the unearned license fee.

(Code 1979, §§ 7-3-46, 7-3-61, 7-3-81(c); Ord. of 10-13-03, § 16)

Sec. 3-56. - Restrictions upon transfers.

Licenses hereunder shall not be transferable, as to location or ownership, except upon approval of the board of commissioners subject to the following:

- (1) In case of the death of any person holding such a license or any interest therein, the same may, in the discretion of the board of commissioners, be transferred to the personal representative or the lawful heirs of the deceased person.
- (2) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners, who were

partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.

- (3) Should a transfer of a location be approved, there shall be no pro rata return of any license fee and the new location shall be considered under, and meet the requirements of, a new license hereunder; provided, however, that where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.

(Code 1979, § 7-3-48; Ord. of 10-13-03, § 15)

Sec. 3-57. - Penalty for violation.

Pursuant to the provisions contained in O.C.G.A. § 36-1-20(b), the maximum punishment for the violation of any section contained in this chapter shall not exceed a fine of \$1,000.00 or imprisonment for 60 days, or both.

(Ord. of 9-12-95)

Secs. 3-58, 3-59. - Reserved.

ARTICLE III. - EXCISE TAXES²¹

Footnotes:

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State Law reference— County excise tax on malt beverages, O.C.G.A. § 3-5-80 et seq.; county excise tax on wine, O.C.G.A. § 3-6-60.

Sec. 3-60. - Levy on malt beverages.

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the county in the business of selling malt beverages, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the unincorporated areas of the county an excise tax, to be computed and collected on the following basis:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;
- (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of five cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(Code 1979, §§ 7-3-91(a), 7-3-92)

Sec. 3-61. - Levy on wine.

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the county in the business of selling naturally fermented wines, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the unincorporated areas of the county an excise tax, to be computed and collected on the following basis: Twenty-two cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(Code 1979, § 7-3-113)

Sec. 3-62. - Levy on distilled spirits.

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the county in the business of selling distilled spirits for consumption upon the premises, as defined under the laws of the State of Georgia, there is imposed an excise tax upon the sale of such beverages in the amount of three percent of the charge to the public for the beverages. Dealers collecting the tax authorized hereunder shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. tit. 48, ch. 8.

(Ord. of 12-8-08(1), § 20)

Sec. 3-63. - Payment of tax; records and reports; penalty.

The tax imposed herein shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping, or delivering malt beverages or wine to any retail dealer in the unincorporated areas of the county, whether delivered to the dealer's place of business for resale or not, shall as a condition to the privilege of carrying on such business in the county:

- (1) Keep true and correct records of all sales, shipments or deliveries of such malt beverages and wine to each retail dealer, such records to be preserved for a period of one year and to be made available on request for inspection by any duly authorized representative of the county.
- (2) Collect from each retail dealer at the time of delivery of the malt beverages and wine the amount of tax due under the terms of this article and hold the same in trust for the county until such amount is remitted to the county as next provided.
- (3) On or before the 20th day of each calendar month make a verified and comprehensive report to the county administrator or designee(s), which report shall correctly show all sales and deliveries of malt beverages and wine made to or for retail dealers in the county for the month immediately preceding the report. The report shall specifically state the exact quantities of malt beverages, by size and type of container, sold during the month within the county. The report shall be accompanied by remittance to the county for all taxes collected or due as shown on the report. Failure of the wholesale dealer or distributor to remit the taxes herein required will result in a penalty of ten percent of the tax due in addition to the tax due.

(Code 1979, §§ 7-3-93, 7-3-114; Ord. of 10-13-03, § 14)

Sec. 3-64. - Failure to make reports.

If any wholesale dealer or distributor fails or refuses to make the reports herein provided for, the board of commissioners shall notify the party in writing, and if the reports are not made and the taxes remitted within five days from the date of the notice, the board of commissioners may withdraw from the wholesale dealer or distributor the privilege of doing business in the county by revoking such dealer's license.

(Code 1979, §§ 7-3-94, 7-3-115)

Sec. 3-65. - Unpaid taxes.

It shall be a violation of this chapter for any person to sell at retail within the unincorporated areas of the county any malt beverages or wine on which the taxes herein provided for have not been paid.

(Code 1979, §§ 7-3-95, 7-3-116)

Sec. 3-66. - Failure to collect taxes at delivery.

It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor to deliver any malt beverages or wine to any retail dealer within the unincorporated areas of the county without collecting the taxes herein provided for at the time of delivery.

(Code 1979, §§ 7-3-96, 7-3-117)

Sec. 3-67. - Exemptions to the taxation of wine.

The excise taxes imposed by section 3-61 of the Code of Ordinances of Whitfield County hereinabove shall not be levied with respect to the following:

- (1) Wine sold to and used by established churches, synagogues, and/or mosques for sacramental purposes only; or
- (2) Any sale of wine which is exempt from taxation by the state under the Constitution of the United States; or
- (3) Wine sold to persons outside the State of Georgia for re-sale or consumption outside the State of Georgia; or
- (4) Wines which contain less than one-half of one percent of alcohol by volume.

(Ord. of 12-17-01, § 12)