

CHAPTER 3
SECTION 1: BEER AND WINE LICENSE
(ORDINANCE 09/03/1974, AMENDED 12/03/1974, 12/02/1975, 09/06/1977,
01/02/1979, 01/08/1985, 06/04/1985, 12/17/1985, 12/20/1988, 12/19/1989, 08/17/2004)

A. DEFINITION AND GENERAL REQUIREMENTS

1. Definitions. As herein used, the following words shall have the meaning indicated:
 - a. *Clerk* shall refer to the Clerk of the County Board of Commissioners of Wilkinson County, Georgia.
 - b. *Commissioners* shall refer to the County Board of Commissioners of Wilkinson County.
 - c. *County* shall be deemed to mean the area of Wilkinson County, Georgia, outside the limits of incorporated municipalities.
 - d. *Beer* shall be defined to mean malt or fermented beverages made in whole or in part from malt or any similar fermented beverage provided the same shall not contain more than six per cent (6%) of alcohol by volume.
 - e. *Wine* shall be defined to mean any fermented beverage made from fruits or berries, with an alcoholic strength not exceeding twenty per cent (20%) by volume.
2. Rules Adopted. The rules and regulations contained in this resolution are hereby adopted to regulate the sale of beer and wine as herein defined in said County.
3. License Required. No beer or wine may be sold legally in said County except under a license granted by the Commissioners as in this resolution provided.
4. License Fees. License fees shall be such as are specified from time to time by the license and tax resolution adopted by the Commissioners. License fees shall be paid in advance not later than February 1 of each year for the entire year, beginning on February 1 and ending on January 31, of each year. The payment of license fees shall be a prerequisite to the issuance of a license. License fees shall not be prorated for a part of a year, but the full license fee shall be payable for any part of a year.
5. Licenses a Privilege. Licensee hereunder are mere grants or privileges to carry on the business during the term of the license, and shall be subject to all terms and conditions imposed by the Commissioners at the time of the issuance of the license as well as such reasonable terms and conditions as may be thereafter imposed by the Commissioners while the license is in effect licenses shall be subject to suspension or revocation as herein provided, but no such suspension or revocation shall entitle the licensee to a return of any portion of the license fee.
6. Assignability of Licenses. Licenses issued hereunder shall not be assignable or transferable, but a business successor, except as herein expressly provided shall be required to apply for a license as for an original application.

7. Rights to Renewal. The issuance of a license hereunder for any calendar year or any portion thereof shall not be deemed to vest the licensee or any person having an interest in the business with any right to renewal thereof.

B. LICENSES - HOW OBTAINED AND ISSUED

1. All persons, firms or corporations desiring to engage in the retail sale of beer and wine shall advertise their intention to make application to the Commissioners for the issuance of a license. Such advertisement shall be at least 3 inches by 5 inches and shall be published once a week for two (2) consecutive weeks in the official organ of Wilkinson County, Georgia. Said advertisements shall contain a statement showing the location of the proposed business, the name of the applicant, and the fact that such applicant proposes to sell beer and wine at said location. If the applicant is a partnership, such notice shall show the names of the partners, and if a corporation, the notice shall show the names of the officers. The advertisement herein prescribed shall not be required of applicants for license where the license sought is a renewal of a prior license issued to the same applicant for the same location for a business establishment which is located continuously up until the date of the application. If the same location was previously licensed to do business, but there has been a change of ownership of the business or other interest therein, the advertisement shall be required.
2. Application. When the advertisement required by the preceding section have been published. The applicant shall obtain an affidavit of publication and shall attach the same to a written application for a beer and wine license. The application shall be in such form as shall be from time to time prescribed by the Commissioners. The application form shall be obtained from the Clerk and filed with him. All applications for new licenses under the provisions of this resolution shall be made in person by the applicant at the office of the Clerk of the County Commissioners. It shall be subscribed by the applicant on oath, and shall be fully and completely executed. If the applicant is a partnership, all partners shall execute the same, and if the applicant is a corporation it shall be executed by the President and Secretary of the corporation. There shall also be attached to the application a cashier's check, money order, or like remittance for the license fee in full. When the verified application, with the affidavit of publication and payment of the license fee is filed with the Clerk, the Commissioners shall inspect the application, and conduct such investigation and hold such hearing thereon, as it may deem necessary.

The Commissioners may seek the advice of the District Attorney, the County Attorney, and law enforcement officers during its consideration of the application. After their investigation, the Commissioners shall either grant or deny the applicant for a license pursuant to the provisions of this resolution.

3. Transferability of Licenses. Licenses hereunder shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application as for a new license as provided by this resolution. Changes of business interest from one party at interest named in the original application

to another party at interest named in the original application and changes from one employee or manager of a business establishment to his successor shall not be deemed a transfer or a license. In each instance, however, the licensee shall notify the clerk in writing of such change and make a complete disclosure of all of the facts in connection therewith, such notification to be made within three (3) days from the date of such change.

4. All applications for licenses shall be completely and fully executed and each question on the form provided shall be answered accurately; failure of an applicant to furnish all data, information and records required by the application as well as failures to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application with prejudice.
5. Renewals. Upon the expiration of any license by its terms, licensees shall be required to apply for a new license for the succeeding calendar year as herein provided for new licenses. The Wilkinson County Board of Commissioners shall advertise the renewal of all licenses twice in the legal organ of the County. An applicant filing for the renewal of a license for on-premises consumption shall not be required to obtain written consent from the adult inhabitants as outlined in section C 4. of this Ordinance. Nothing herein contained shall be deemed to prohibit a licensee from applying for a new license for the succeeding calendar year within a period of sixty (60) days next prior to the expiration of his then current license.

C. CRITERIA FOR ISSUANCE OF LICENSES

1. Residence. If the applicant is not a resident of Wilkinson County, then the applicant must identify the name and number a Wilkinson County resident who shall be responsible for compliance with the license. Such person shall be required to submit to a criminal background check, including fingerprinting and must be otherwise eligible to be issued a license under this Ordinance.
2. Payment Of Fees And Taxes. No license shall be issued under this ordinance unless the applicant has fully paid the beer and wine license fee, the occupational license fee and all ad valorem taxes due to Wilkinson County, Georgia for which he is liable. If the applicant is not liable for ad valorem taxes on the property on which said business is to be located, all ad valorem taxes on such property must be paid by the true owner thereof.
3. Character. In determining the applicants good moral character, the Commissioners shall be entitled to consider among other things whether or not the applicant any officer, director or stockholder thereof, has entered a plea of guilty, plea of nolo contendere, or shall have been convicted of any crime involving moral turpitude or involving the alcohol control laws of the State of Georgia or the United States. In the event any applicant, firm, corporation or any officer, director or stockholder thereof shall have entered a plea of guilty a plea of nolo contendere, or shall have been convicted of a crime involving moral turpitude or involving the alcohol control laws of the State of Georgia or the United States, the Commissioners shall be entitled to use same as evidence of the applicant's

character and deny an application for said license. However, in no event shall any license be granted to any person, firm or corporation when said person or any member, officer, director or stockholder has, within five (5) years immediately preceding the date of the application had three (3) or more of the following entered a plea of guilty, a plea of nolo contendere, or been convicted of a crime involving moral turpitude or a violation of any law relating to the control or sale of any alcoholic beverages whether state, federal or local. This requirement shall be determined by the applicant being the subject of a criminal background check, including fingerprinting and the applicant shall bear the cost of such checks.

4. Distances from Certain Uses. No license shall be issued under this Resolution where the location of the business is within three hundred (300) feet of the following: a church, a school ground or college campus, a public library or any branch thereof, a tourist or mobile home court or motel. No license shall be issued under this ordinance where the location of the business is within one thousand (1,000) feet of a private residence, provided, however, that should an applicant obtain the written approval or consent of all of the adult inhabitants residing within one thousand (1,000) feet of the proposed location designated for the selling of beer and wine, the Commissioners shall be authorized, in their discretion to waive the one thousand (1,000) foot private residence requirement. The consent obtained herein shall consist of a petition signed by each adult residing within the said one thousand (1,000) foot distance and the signatures thereon shall be independently verified by the Commissioners or their designated agent; provided however, that the one thousand (1000) foot restriction previously mentioned for a private residence shall not apply to an applicant for the sale of beer and wine to be consumed away from the premises. Applicant for the sale of beer and wine to be consumed on the premises must conform to the one thousand (1,000) foot restriction for private residence herein mentioned.

The distance herein prescribed shall be measured in a straight line from the nearest property line of the place of business to the nearest property line of any such church, private residence, library or branch thereof, school ground or college campus, tourist or mobile home court or motel. Nothing herein contained, however, shall be deemed to prohibit the issuance of a license under this ordinance for a motel or similar establishment where the motel or similar establishment operates a restaurant for the sale of beer only in connection with the sale of food therein.

5. Mobile Home or Tourist Courts. Additional provisions. No license shall be issued for the operation of any beer and wine business on the premises of a mobile home court or tourist court.
6. Other Criteria Declared To Be In The Public Interest In determining whether or not any license applied for hereunder shall be granted, in addition to all other provisions at this resolution, the following shall be considered in the public interest and welfare:
 - a. The applicant's reputation, character, and mental and physical capacity to

conduct business.

- b. Whether or not applicant has violated any law or regulation relating to any beer and wine business for which he may have previously held a license or in which he may have had an interest.
- c. The manner in which the applicant conducted the beer and wine business under any prior license.
- d. The distance of the premises on which the license is to be used from other premises for which a license has already been granted. In this connection, it is declared to be the policy of the Commissioners that no license shall be granted where another license has already been granted within a distance of one thousand (1,000) feet of an existing licensed establishment.
- e. Whether or not the applicant has previously had a beer license revoked it is the declared policy of the Commissioners that no person, firm or corporation whose license has previously been revoked shall be issued a license. No license shall be issued under the provisions of this section to any person who is in fact a front for any person, partnership or corporation whose license has been revoked.
- f. The extent of the financial interest of the applicant in any wholesale beer and wine business. It is declared to be the policy of the Commissioners that no person who has any financial interest in any wholesale beer and wine business shall also have any financial interest in any retail beer and wine business and no financial aid or assistance to any licensee hereunder from any wholesaler or manufacturers of beer or wine shall be permitted.
- g. The suitability of the premises for the conduct of a beer and wine business, including its location and the difficulty or absence thereof of policing by law enforcement agencies.
- h. The sentiment of the community in which the proposed business would be operated, so far as the same may be known to the Commissioners, as hereinafter provided for upon written petition to the Board of Commissioners of Wilkinson County being filed with the Clerk of said Commissioners, with the personal signatures and residence addresses of a simple majority of the adult residents of any area of Wilkinson County, outside the corporate limits of any municipality, any part of whose places of abode lies within a radius of one (1) mile of any location at which it is proposed that beer or wine at retail will be sold, appearing thereon, requesting that the Commissioners deny the application for a license to sell any such alcoholic beverage at said location, the Commissioners shall publicly announce the date, time of day and place of a public hearing upon such license application and shall cause notice thereof to be published in the Wilkinson County News once a week for two consecutive weeks, the final notice to be published not less than seven (7) days prior to the date of such public hearing, and upon the physical appearance at such public hearing of such number of petitioners as shall constitute a simple majority of the adult residents of such areas, the Commissioners shall have the power and authority in the public interest to deny the license application and the Commissioners, in considering such application, shall likewise have the power and authority in the public interest,

to deny such application. Whether or not petitioners constitute a simple majority of the adult residents of such an area shall be determined by a census or survey of said area conducted by an agent of the Commissioners duly appointed for such purpose within a period of thirty (30) days immediately preceding the date of such public hearing. The term “adult resident”, as used in this section is defined as a person, eighteen (18) years of age or older, whose principal place or abode lies wholly or partially within the above-stated radius or such proposed alcoholic beverage license location at the time such person signs such petition, continuing to the date of the hearing on the petition and application before the Commissioners.

7. Waiver for Existing Businesses. Where a license has been issued to a business engaged in the retail sale of beer and wine for the year 2004 and the licensee or the location thereof do not meet all of the criteria specified in this resolution the Commissioners reserve the right to waive one or more of such criteria provided:
 - a. The business operation is continuous as a beer and wine establishment into subsequent years and there is no change in the ownership thereof if the licensee be an individual or a partnership, and there is no change in the corporate personnel if the licensee be a corporation; and
 - b. The Commissioners shall find that the waiver necessary will not be substantially contrary to the public interest. Should there be an interruption or lack of continuity in the business operating as a beer or wine establishment or any change in the ownership thereof, the applicant for a new license shall be required to comply with all of the provisions hereof; provided, however, that a change of ownership of said establishment which does not result in the discontinuance as a beer and wine establishment will authorize said Commissioners to waive one or more of said specified criteria.

D. CONDITIONS OF ISSUANCE OF LICENSES DUTIES OF LICENSEES

1. Duty to Report Changes. Whenever there shall be change in any of the facts reported to the Commissioners in the application for a license after such license has been granted, it shall be the duty of the licensee, within three (3) days after such change, to report the same to the Clerk in writing.
2. When Sales Permitted.
 - a. Licensees who possess a license for the sale of beer and wine to be consumed away from the premises (package sales) shall not engage in the sale of beer and wine, except between the hours of 7:00 A.M. and 12:00 A.M. (midnight) on Monday through Saturday. Licensees shall not engage in the sale of beer or wine on Sundays nor election days.
 - b. Licensees who possess a license for the sale of beer and wine to be consumed on the premises shall be subject to the same hourly restrictions as previously stated in paragraph D2(a), except that said establishments shall be allowed to remain open until 2:00 a.m. However, no alcoholic beverages, beer or wine shall be sold or served to customers after 12:00 midnight. The owner or

manager of such establishment shall close the premises promptly at 2:00 a.m. It shall also be the responsibility and duty of the owner or manager of such establishment to ensure that patrons do not remain on or around the establishments after closing hour with any alcoholic beverages. The owner or manager shall also be responsible for clearing the parking lot and/ or yard around the establishment promptly after the business is closed. Said establishment shall not re-open from 2:00 a.m. Sunday until 7:00 a.m. the following Monday.

3. Furnishing to Minors Prohibited. No licensee shall furnish or cause to be furnished, or permit any person in his employ to furnish beer or wine to any minor: any minor shall be as defined by State law. The prohibition of this section includes the sale, gift, or any other procuring of said beverages to minors. Furthermore, in those establishments selling beer and wine for consumption on the premises no minor child shall be allowed on the premises unless accompanied by a parent or legal guardian.
4. Furnishing to Other Persons Prohibited. No licensee shall by himself or another furnish or cause to be furnished or permit any person in his employ to furnish beer or wine to any person who is mentally incompetent or who is physically or mentally incapacitated due to the consumption of beer, wine or other alcoholic beverages, or is under the influence thereof.
5. Restriction on Employment of Minors. No licensee shall employ or permit the employment of any minor to sell or otherwise or deal with beer or wine.
6. Familiarity with Resolution. It shall be the duty of each licensee to maintain a copy of these regulations on the premises and to instruct each and every employee as to the terms thereof and each licensee and employee shall at all times be familiar with this resolution.
7. Responsibility for Acts of Employees and others. Licensees are charged with the responsibility hereunder for compliance with this resolution by their officers, agents, servants and employees. Licensees are charged with the responsibility for acts in violation of this resolution performed by others if with the knowledge of the licensee.
8. Compliance with Laws. In addition to the provisions of this resolution, licensees are also charged with responsibility for adhering to any other provisions of resolutions of the County Board of Commissioners of Wilkinson County Georgia, as well as the statutes and laws of the state of Georgia, and of the United States relating to the operation of their businesses.
9. Posting of Notices to Minors. Every licensee shall post in a conspicuous place in his place of business a notice with letters not less than four inches in height which shall be clearly visible to all customers entering the establishments as follows: "SALES TO MINORS ARE STRICTLY PROHIBITED."

E. INVESTIGATIONS: SPENSION OR REVOVATION OF LICENSES

1. Investigations. The Commissioners shall have the right to make such inquiry or investigation as it may find to be reasonably necessary to determine compliance with these regulations. Such investigation may consist, among other actions, of calling licensees for examination under oath, obtaining evidence under oath from other persons; the procurement of documents and records including records of the licensee, and inspection and examination of records and documents from whatever source obtainable.
2. Suspension or Revocation. Any license issued hereunder may be revoked or suspended by the Commissioners for cause shown, after a hearing of which at least three (3) days written notice shall be given to the licensee. Such notice shall specify the time, place and purpose of the hearing, and a statement of the charges upon which such hearing shall be held. At such hearing, the licensee shall have the right to appear in person and by attorney, and both the county and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross-examine witnesses and generally present evidence of violation of this resolution or absence thereof.
3. Grounds for Suspension or Revocation of License. The following shall be considered just cause for suspension or revocation of a license hereunder:
 - a. The Performance of any act prohibited by this resolution or the failure to perform any act required by this resolution, as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done by an agent, servant, employee, or officers of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense.
 - b. The entry of a plea of guilty or nolo contendere, or the conviction of any licensee, partner. or any officer, director or stockholder of a licensee corporation with respect to a charge of violation of any of the laws of the United states or of the State of Georgia relating to alcohol control, or any crime, whether a felony or not, involving moral turpitude.
 - c. The occurrence on two or more occasions within any twelve- (12) months period of fights, disorderly conduct, drunkenness, breach of the peace, and other similar conduct whether the same be committed by the licensee or by customers or others.
 - d. Any other act or omission with respect to the operations of a business licensed hereunder which the Commissioners shall find to be contrary to the public interest, or which shall render the applicant or the business location unfit for the continued operation of the business.
 - e. The making of any statement on an application for a license which is later found to be false.
4. Whether License Suspended Or Revoked. The Commissioners shall have the right to revoke a license for cause shown or to suspend the same for a period of time. Whether a license shall be suspended or revoked, and, if suspended for what period of time, shall be

determined by the Commissioners after a consideration of the evidence in the cause and in accordance with the Commissioners findings as to the severity of the offense.

5. No New License to be Issued After Revocation. When a license has been suspended under the provisions of this resolution, no application for a new license for the same location will be received for a period of twelve (12) months, and no application for a new license from the licensee involved shall be received for a period of twenty four (24) months from the date of said revocation or suspension.
6. Motion for Rehearing. Any person, firm, or corporation aggrieved by act or omission of the Commissioners with respect to its proceeding under this resolution including the suspension or revocation of a license shall have the right to move for a rehearing. Such motion for rehearing shall be filed within five (5) days after the act or omission complained of, shall be in writing, and shall outline the manner in which such protestant believes that the Commissioners erred.

If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for rehearing except after a grant thereof by the Commissioners. If the matter of which complaint is made was not the subject of a prior hearing at which the protestant was permitted to be present and heard, the Commissioners shall afford a hearing within ten (10) days after the filing of the motion of which reasonable notice shall be given to all parties known to the Commissioners to be interested, at which persons interested in protesting or supporting the act or omission of the Commissioners shall be allowed to appear, be represented, introduce oral and documentary evidence, and examine and cross-examine witnesses.

F. SEVERABILITY; REPEAL

1. Applicant Subject To The Terms Of Resolution. An applicant by filing any application for a license hereunder submits to all of the terms of this resolution, and agrees that he will furnish such evidence, oral or written, as the Commissioners shall find to be reasonably necessary to the determination of the application, and such applicant further agrees by the filing of such application that if a license is issued thereon, he will comply with the terms of this resolution.
2. Severability. Each part, section, sentence and phrase is declared to be severable and the invalidity of any such part, section, sentence or phrase shall not effect the remainder of this resolution.
3. Repeal. All resolutions or parts thereof in conflict herewith are hereby repealed.
4. The Sheriff of Wilkinson County, his deputies or any duly authorized law enforcement officer acting at his request shall have authority in Wilkinson County to:

- a. Obtain and execute warrants for arrest of persons charged with violations of this resolution;
- b. Obtain and execute search warrants in the enforcement of such resolution;
- c. Arrest without warrant any person violating such laws in the officers presence or within his immediate knowledge when there is likely to be a failure of enforcement of such laws for want of judicial officer to issue a warrant;
- d. Make investigations in the enforcement of such laws and, in connection with the investigations to go upon any property outside of buildings, posted or otherwise, in the performance of official duties;
- e. Seize and take possession of all property which is declared contraband under this resolution or under the laws of the State of Georgia;
- f. Nothing in this resolution shall be construed so as to relieve any law enforcement officer, after making an arrest from the duties imposed generally to obtain a warrant promptly and, without undue delay, to return arrested persons before a person authorized to examine, commit, or receive bail, as required by general law. The aforesaid law enforcement officer(s) may enter upon the licensed premises of any person engaged in the distribution, sale, storage, or possession of alcoholic beverages at any time for the purpose of inspecting the premises and enforcing this resolution.