

ORDINANCE NUMBER 2003-01

ORDINANCE FOR ALCOHOLIC BEVERAGES

AN ORDINANCE FOR THE PURPOSE OF ADOPTING RULES AND REGULATIONS REGARDING THE USE OF ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

1. **BE IT ORDAINED** by authority of the Mayor and Council of the Town of Mitchell, and it is hereby ordained by said authority, that from and after the passage of this ordinance the following rules and regulations regarding the use of alcoholic beverages within the Town of Mitchell are adopted:

ARTICLE I. IN GENERAL

Section 100. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Malt beverage (beer) shall mean 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 (6%) alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Wine shall mean any alcoholic beverage containing not more than 21 percent (21%) alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" 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 "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a 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 section.

Section 101. Purposes of chapter.

This chapter has been enacted for the general purpose of promoting the health and general welfare of the town and specifically to:

1. Establish reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages.
2. Protect and preserve schools and churches.

3. Give effect to existing land use.
4. Preserve residential areas with reasonable consideration being given to the character of the area and their peculiar suitability for particular uses, the congestion in roads and streets, and with a general view of promoting desirable living conditions, sustaining the stability of neighborhoods and property values.
5. Protect against the evils of concentration of beer and wine licenses in one family and/or corporation.
6. Prevent an undesirable person from engaging in or having an interest in alcoholic beverages or the sale thereof in the town.

Section 102. Compliance with chapter required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any beer or wine beverage within the town without having first complied with the provisions of this chapter, but the properly licensed sale of same is hereby declared lawful.

ARTICLE II. LICENSE

Section 200. Required.

No beer or wine beverages shall be manufactured or warehoused except under license granted by the town council as provided herein, but the properly licensed sale of same is hereby declared lawful.

Section 201. Wholesale sales.

Wholesale sales of such beverages in the town by wholesalers licensed by the state are hereby declared legal, subject to the right of the town to charge a wholesaler for any violation of state law or regulation, and to request a hearing thereon before the state revenue commissioner.

Section 202. Fees.

- A. Annual fees shall be paid the town before any license to sell beer and wine is issued. The license fees for retailers and wholesalers shall be set from time to time by the mayor and council and a schedule of such fees is on file in the town clerk's office.
- B. Upon filing an original application or reapplication (except renewals) with the town, the applicant shall deposit in cash or by check the current processing fee to cover the expense of investigation and processing the application which fee shall not be refundable and shall not apply against any license granted hereunder. There will be no investigation fee charged wholesalers licensed by the state.

- C. On all renewals filed and fees paid on or after February 1 of the license renewal year, there shall be paid a ten percent (10%) delinquent penalty.
- D. Annual fees shall be prorated on a monthly basis (all or any part of a month) and should the business be sold, the license fee, if previously paid, may be transferred in favor of a new applicant. If the business should close voluntarily or the licensee cease selling such alcoholic beverage other than because its license is suspended or revoked, then an amount may be refunded, upon application by the licensee, prorated on the basis of the amount of the fee previously paid per month multiplied by the number of full months remaining in the calendar year, which sum shall be the refunded amount.

Section 203. Contents of application.

All applications for licenses under this article shall be made on forms furnished the applicant by the city and shall indicate, along with all reasonable information necessary to complete the form, which of the following is to be considered for licensing of the applicant to conduct as his place of business:

1. Retail package beer/malt beverage.
2. Retail package wine.

Section 204. Consideration of application; approval conditional.

Each application provided for in this article shall be considered and passed upon by the town council in regular or special session, legally assembled. No license shall be granted to any person unless it is made to appear to the town council that the applicant is a suitable and fit person to carry on such business, and that the business will be conducted in an orderly manner and in compliance with all laws, municipal, state and federal. Upon approval of the application and payment of the required license fee, the applicant shall be entitled to the issuance of the license; provided, however, the town council reserves the right to approve such issuance of the license or licenses conditioned upon full and final compliance by the licensee with all applicable city ordinances.

Section 205. Disqualification criteria.

When contrary to the public interest and welfare no original application shall be considered and no license to sell beer and wine beverages of any kind shall be issued by the town council to or for:

1. Any person as determined by the town council by reason of such person's business experience, financial standing, moral character, mental capacity, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

2. Any person who shall have been convicted or who shall have entered a plea of nolo contendere, or forfeited a bond, to any felony within a period of ten (10) years immediately prior to the filing of any such application, or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation, particularly, but not limited to, those involving force or violence, prostitution, alcoholic beverages, gambling or tax law violations, if such conviction, plea or forfeiture tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding this provision the town council, in their sole discretion, may direct the issuance of a license to persons who have in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere, or forfeited a bond on any crime, and the town council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.
3. A location not suitable in the judgment and discretion of the town council because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
4. A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgement of the town council, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of beer and wine be permitted at such location.
5. Any person who is an elected official (or that person's spouse) of, or employee, (or that person's spouse) of, the town.

Section 206. Direct financial interest restricted.

No person who has a direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any license or have an interest in any other license issued under the terms of this article.

Section 207. Debts to the town.

The town clerk shall cause an inquiry to be made into the tax records to determine if any applicant or other parties interested in an application have any outstanding debt taxes or special assessments that are delinquent or any other monies owing to the town. No license shall be issued nor shall a license be renewed until all such debts are paid in full.

Section 208. Investigation of applicant.

All applications required by this article shall be investigated by the Glascock County Sheriff's department and the report of investigation presented to the town council for consideration with the application.

Section 209. Issuance.

Upon approval by the town council of an original or renewal application for license of one or more of the sales of beverages under this article, such sales of beer and wine beverages may be made by the applicant after a license is issued for all or the remaining part of the calendar year in which the license is issued unless the license is revoked or suspended for "due cause." The month of January of the year following the last year licensed is hereby allowed for filing of an application for renewal for a new license year.

Section 210. Renewal.

The month of January of the year following the last year licensed is hereby allowed for filing of an application for renewal for a new license year. If application for renewal and payment of license fees are not received by the town before February 1 of such renewal year, all sales of such beverages shall cease as of the last legal hour in January for such sales.

Section 211. Suspension, revocation, denial of renewal or transfer.

- A. *Notice, hearing.* Any license which has been issued under this article may be denied, suspended or revoked or transfer refused, by the town council for due cause. Before the town council shall deny any application for a license or for the transfer of any license, or shall revoke or suspend any existing license, the applicant shall be given notice in writing from the town to show cause before the city council at a time and place specified therein not less than three (3) days nor more than ten (10) days from the date of service of the notice, why the application for, or renewal of, a license or for transfer of license should not be denied, or why the license should not be revoked or suspended, as the case may be, stating the grounds therefor, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exists, why the application should not be denied or the license revoked or suspended, after which the town council shall take such action as it, in its judgment and discretion, shall deem warranted under the facts. The hearing provided for in this subsection need not be at a regular meeting of the town council, but may be at such time and place as shall be fixed in the notice. All decisions denying, suspending or revoking any license or application shall be in writing, with the reasons therefore stated, and mailed or delivered to the applicant. In addition, at any hearing as provided for in this subsection, the party afforded the hearing shall have the opportunity to present evidence, have an attorney, and have testimony recorded at his expense.

B. *Due cause generally.* "Due cause" for the suspension, revocation or denial of the renewal or transfer of any license shall consist of an act or omission found to be by the town council, after a hearing as above provided, a violation of any law or ordinance regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law, or for the violation of any town ordinances, other than traffic violations or ordinances, or failure of the licensee or his employee to promptly report to the proper authorities any violation of the law ordinance, breach of peace, disturbance or altercation, resulting in violence occurring inside the premises.

(1) Due cause may also be found should the licensed establishment have become a "trouble spot" in the judgment of the town council by reason of disturbances or acts of disorderly conduct or violence having occurred in the establishment or on the premises thereof; provided that when the license of any establishment has been revoked or renewal of license denied because such establishment has become a "trouble spot," no further license shall be issued under this article to any person, firm or corporation at such location for a period of at least twelve (12) months from the date of revocation.

(2) Due cause shall also consist of the business or the operation or location thereof, or the owner or any person connected therewith, ceasing to meet any of the qualifications for the issuance of license as stated in this article.

(3) Due cause may also be found upon the revelation of any false statement or material misrepresentation in any application hereunder. Any material omission from or untrue or misleading information which is contained in an original, renewal or transfer application for license hereunder shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license.

(4) Failure to control operation resulting in a public nuisance. If the failure to control the operation either inside the building or outside on the property results in controlled substance abuse, prostitution, gambling, flagrant indecent conduct or obscenity, fighting, excessive noise, loitering or illegal parking, to the number of times and extent that the town council, after proper hearing, should find the establishment to have become a public nuisance, such failure may be declared to be "due cause" for suspension or revocation of the beer and wine license for such establishment, or the denial of renewal application for same.

C. *Discontinuance of sale.* On evidence of failure or refusal of the licensee or employee hereunder to cooperate with any law enforcement officer on any reasonable request or action within such officer's duties, responsibilities or powers, including all police powers, rights and duties to investigate to determine any pertinent fact relating to the establishment, the licensee, any employees or corporate officers or partners, the sheriff shall immediately order all sales of any alcoholic beverages suspended until

after a hearing as set out in the “due cause” hearing provided for in subsection A of this section, such hearing to be concerning such failure or refusal to cooperate.

- D. *Refund of license fee.* When a license is revoked or suspended, the town shall not be required to refund any portion of the license fee.
- E. *Effect of revocation by state.* Whenever the state shall revoke any permit or license to sell any alcoholic beverage at retail, the town license to deal in such product shall thereupon be automatically revoked without any action by the town council or any municipal officer. If the state has suspended the license or placed the same on probation, then the town license is automatically suspended or probated, as the case may be.
- F. *Emergency situation.* The mayor is the delegated authority to suspend any license hereunder in any emergency situation, and said suspension may be made effective immediately and remain in force until the next regular or called meeting of the town council. In addition, in any emergency situation, the sheriff is hereby authorized to cause the business in question to close temporarily until he decides the emergency or possible riotous situation to be at an end, or until such decision is made by the town council at its next regular meeting, whichever occurs first.

Section 212. Transfers, changes of ownership, locations.

- (a) Licenses issued under this article shall not be transferable except as otherwise provided in this section.
- (b) In the case of the death of any person owning a license, or any interest therein, with the approval of the town council and subject to the terms of this section, the license may be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such administrator, executor, personal representative or heirs meet all the other qualifications contained in this article. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and disposition of the license or his interest therein, but in no event to exceed six (6) months.
- (c) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license from withdrawing from the partnership and assigning his interest in such partnership to one or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this section are fully complied with and then only upon the approval of the town council.
- (d) Any change in the ownership interests contained on the application shall cause the immediate cessation of sales of any alcoholic beverages and no sales of alcoholic beverages shall be made until any such change or changes in the ownership interests

are approved by the town council, provided, however, that this provision shall not apply in a situation where one or more individuals who have ownership interests in the license cease to have such ownership interest, but the remaining ownership interest remains unchanged except as to the division of the remaining interests.

- (e) Should a transfer of the location be desired, the location shall meet all requirements of a new license to be issued hereunder, except payment of the license fee. The investigation fee will accompany the application and the unearned portion of the license fee may be transferred to the new location in the event the transfer of location is approved by the town council.
- (f) An application for a new license on an existing licensed location shall meet all requirements of a new license to be issued hereunder except payment of license fee shall be waived only in the case of a purchaser of a business where an existing license remains valid. The investigation fee will accompany the application and the unearned portion of the license fee may be transferred to the new license in the event the transfer or issuance of a new license on an existing licensed location is approved by the town council.

ARTICLE III. OPERATING REGULATIONS

Section 300. Hours, days of sale.

- (a) *Packaged beer and wine locations.* It shall be unlawful for any licensed licensee to sell packaged beer or wine hereunder to permit the sale or engage in the sale of such beer or wine except from 12:01 a.m. Monday until 12:00 midnight on Saturday.
- (b) *Wholesalers.* The business hours of any wholesaler licensed hereunder shall be from 6:00 a.m. until 7:00 p.m., Monday through Saturday.
- (c) *Holidays.* No alcoholic beverages of any kind may be sold by any licensee on Thanksgiving Day or Christmas Day.
- (d) *Election days.* Alcoholic beverages may not be sold on and during any election day in the Town of Mitchell, including general, special and primary elections.

Section 301. Minors.

- (a) *Furnishing.* It shall be unlawful and punishable as provided in sections 102 and 200 for any person holding an alcoholic beverage license, or any other person, or his agent or employee, to sell or give away, or permit the sale or gift of any alcoholic beverage to any person under the age of 21 years, except for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, or in the home with parental consent. No person shall be convicted under this section if such person has been furnished with proper identification showing that the

person who is being furnished alcoholic beverages is 21 years of age or over. For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a description of the person, with the person's photograph, and giving the person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license or state identification card. The licensee shall cause all persons who appear to be near the legal age to exhibit, and the licensee or his employee shall inspect, one of the means of identification allowed above.

- (b) *Consumption, possession.* Except as hereinafter provided, it shall be unlawful and punishable as provided in sections 102 and 200 for any person under the age of 21 years to purchase or possess any alcoholic beverage except for medical purposes pursuant to the prescription of a physician duly authorized to practice medicine in this state, or in the home with parental consent.
- (c) *Attempting to purchase or possess.* It shall be unlawful for any person under the age of 21 years to attempt to purchase or possess any alcoholic beverage.
- (d) *Use of faked, etc., credentials.* It shall be unlawful for any person under the age of 21 years to exhibit faked, forged or borrowed credentials in an effort to obtain alcoholic beverages to which he is not entitled.
- (e) *Underage persons on licensed premises.* No person who holds an alcoholic beverage license, or his agent or employee, shall allow any person who has not attained the age of 21 years to be in, frequent or loiter about the licensed premises unless such person is accompanied by a parent or legal guardian, or unless such person is an employee of the license holder; provided, however, that such person shall be permitted in restaurants or other places serving food without being accompanied by a parent or legal guardian.
- (f) *Employment.* Nothing contained in this section shall be construed to prohibit any person under 21 years of age from:
 - (a) Selling or handling alcoholic beverages as a part of employment in any licensed establishment.
 - (b) Being employed in any establishment in which alcoholic beverages are manufactured.
 - (c) Taking orders for, and having possession of, alcoholic beverages as a part of employment in a licensed establishment.
- (g) *Persons under 18 years old.* No person shall allow or require a person in his employment under 18 years of age to sell or take orders for any alcoholic beverages. The provisions of this section shall not prohibit persons under 18 years of age who

are employed in supermarkets, convenience stores, breweries or drugstores from handling alcoholic beverages which are sold for consumption off the premises.

Section 302. Fingerprinting, background investigation of certain individuals.

- (a) Each applicant for a license to sell beer or wine in the town who has not heretofore been licensed by the town to sell beer or wine at retail, shall be required to submit to a complete fingerprinting record and test, pursuant to the rules and regulations established by the town from time to time, the same being used by the town to supplement the information contained on the application and to make available to the town any records of criminal offenses, either federal or state, from other jurisdictions. Each new applicant (not renewals) shall pay the current investigation fee.
- (b) The town clerk, within his/her own discretion, from time to time, may require employees working in an establishment selling beer or wine to submit information for purposes of supplementing any information available to the town with respect to employees. Each such employee shall pay the current fee for local records check and for an I.D. card to be worn while so employed. The town clerk may require them to apply for a complete fingerprinting for criminal history check within all provisions hereinafter as apply to employees of package stores, and in the discretion of the town clerk such additional fees shall be charged as are reasonably related to recovery of the town's costs in time, equipment and material for such additional fingerprint search.

Section 303. Use of persons with prior convictions prohibited.

- (a) No licensee shall work in any premises for the sale of alcoholic beverages any person in any capacity found to have been convicted of, or who shall have entered a plea of nolo contendere to, any felony within a period of ten (10) years immediately prior to the filing of any such application, or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime.
- (b) Notwithstanding subsection (a) of this section, the town council, in its sole discretion, may direct the issuance of a letter of eligibility to persons who have in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere, or forfeited a bond on any crime not involving force or violence, and the town council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.

Section 304. Location restrictions.

- (a) *General distance provisions.* No beer or wine may be sold at any location within 100 yards of any church building, school grounds, college campus, school building or alcoholic treatment center owned and operated by any branch of government. The school building or educational building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects commonly taught in the common schools and colleges of this state are taught.
- (b) *Distance measurement methods.* Unless otherwise provided in this chapter, all measurements to determine distances for the requirements of subsection (a) of this section shall be measured by the most direct unimpeded route of travel on the ground and shall be measured from the property line of the business from which alcohol beverages are sold or offered for sale to the property line of any church, school or alcoholic treatment center.

ARTICLE IV. EXCISE TAX ON MALT BEVERAGES

Section 401. Levied on wholesale dealers.

- (a) Except as provided in subsection (b) of this section, there is hereby levied and imposed upon all wholesale dealers selling malt beverages within the town a specific excise tax computed on the basis of \$0.05 per 12-ounce container and a proportionate tax at the same rate on all fractional parts of 12 ounces or metric equivalent of malt beverages sold by each wholesale dealer within the corporate limits of the town.
- (b) All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer, shall not be subject to the excise tax provided for in subsection (a) of this section, but in lieu thereof there is hereby levied and imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the town an excise tax of \$6.00 for each barrel or bulk container having a capacity of 15 ½ gallons or metric equivalent sold by such wholesale dealer within the town, and at a like rate for fractional parts thereof.

Section 402. Monthly reports; payments.

Each wholesale dealer selling malt beverages within the town shall file a report with the Town clerk by the 15th day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold by him within the town. Each such wholesale dealer shall remit to the town not later than the 15th day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this article.

Section 403. Additional to other taxes or license fees.

The excise tax provided for by this article shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at wholesale within the corporate limits of the town.

Section 404. Penalty, interest.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten percent (10%) of the total amount due, plus interest accrued at the rate of twelve percent (12%) per annum. The town shall issue an execution against the wholesale dealer so delinquent on its property, for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect same in the same manner as is done in the case of executions issued for collection of town ad valorem property taxes.

Section 405. False reports, nonpayment grounds for revocation of license.

At any time it is found that false and fraudulent reports have been made by the wholesale dealer, his agents, officers or employees, and upon which payment of malt beverages excise tax was reported or paid to the town, and at any time the monthly report and payment called for in this article is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days nor more than ten (10) days notice of a hearing before the town council to show cause why his license to sell malt beverages in the town should not be suspended or revoked because of such false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 406. Sale of untaxed beverages.

It shall be a violation of this Ordinance for any person to sell at retail or otherwise within the town, any malt beverage on which the tax imposed by this article has not been paid to the wholesaler for the town. The violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell malt beverages within the town.

ARTICLE V. EXCISE TAX ON WINE

Section. 501. Levied on retail dealers.

There is hereby levied and imposed upon all retail dealers selling wine within the town a specific excise tax computed on the basis of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter of wine sold by each retail dealer within the corporate limits of the town.

Section 502. Collection, custody of taxes.

At any time of delivery of wine to any retail dealer, the wholesaler shall collect from the retail dealer the excise taxes imposed in this article and hold the same in trust for the town until such tax is remitted to the town.

Section 503. Additional to other taxes or license fees.

The excise tax provided for by this article shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling at retail wine within the corporate limits of the town.

Section 504. Invoices.

Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in duplicate shall be prepared showing the number and size of each container of wine delivered, together with the price therefor and the excise taxes due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery, and the second copy of such invoice shall be retained by the wholesaler. Each retailer or wholesaler shall keep such invoices or copies for a period of twelve (12) months after the date of delivery and during such 12-month period, such invoices shall be made available for inspection by representatives of the town.

Section 505. Monthly reports, payments.

Each wholesale dealer selling wines within the town shall file a report with the town clerk by the 15th day of each month which shall correctly show the name of each retail dealer to whom a delivery was made during the preceding calendar month, the quantities of wine delivered to each dealer, the amount of excise tax collected under the terms of this article, and such other reasonable information as may be required by the town. Such report shall be accompanied by remittance made payable to the town for all taxes collected or due, as shown on such report.

Section 506. Penalty, interest.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten percent (10%) of the total amount due, plus interest accrued at the rate of twelve percent (12%) per annum. The town clerk shall issue an execution against the said wholesale dealer so delinquent on its property, for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect same in the same manner as is done in the case of executions issued for collection of town ad valorem property taxes.

Section 507. False reports, noncompliance.

At any time it is found that a wholesale dealer has not complied with the terms imposed in this article, or that a wholesale dealer has made a false and fraudulent report to the town upon which excise taxes were reported or paid to the town, or at any time the monthly report and payment called for in this article is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days nor more than ten (10) days notice of a hearing before the town council to show cause why his license to sell wine in the town should not be suspended or revoked because of such noncompliance, or false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 508. Sale of untaxed beverages.

It shall be a violation of this Ordinance for any person to sell at retail or otherwise within the town, any wine on which the tax required by this article has not been paid to the wholesaler for the town as above provided. The violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell wine within the town.

2. **BE IT FURTHER ORDAINED** that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

AND it is so ordained, this the 14th day of July, 2003.

UPON PASSAGE: AYES: 5
NAYS: 0

APPROVED:

Scott Lamb
Mayor

ATTEST:

Gail J. Berry
Town Clerk