Section: 110.01
ORD: 2018005

Chapter 110 - BEER AND WINE

AN ORDINANCE REGULATING LICENSING OF BEER AND WINE

In pursuance of authority conferred by G.S. " 160A-174, 160A-175 160A-206, and 105-113, *et seq.* and for the purpose of protecting the resources, health, safety or welfare of the people, the Board of Commissioners of the Town of Waxhaw finds and determines as follows.

Now, therefore, the Board of Commissioners of the Town of Waxhaw does ordain that Title XI, Business Regulations of the Code of Ordinances, Waxhaw, North Carolina is hereby amended adding Chapter 110 Beer and Wine as is set froth on "**Exhibit A**" attached hereto.

Effective Date: This ordinance shall be effective on this 27th day of February 2018.

Town Clerk

Mayor

00129427.1

CHAPTER 110 - BEER AND WINE

Sec. 110.01 - LICENSE; REQUIRED.

Every *person* desiring to sell at retail or wholesale within the *Town* any of the beverages defined and enumerated in *G.S.* 18B-101, as amended, *shall* first obtain a license from the Tax Collector. It shall be unlawful for any *person* to operate business within the Town without having paid and obtained the license tax. No such license *shall* be issued by the Tax Collector until the applicant has obtained the appropriate permit from *the State* Board of Alcoholic Control as provided by *G.S.* Chapter 18B. The license tax must be paid before the person opens for business and is due May 1 of each subsequent year. The license must be posted in a conspicuously place at the business.

The issuance of a license under this Chapter does not authorized the carryon on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the Town from enforcing or enacting other regulations applicable to the licensee. The license may be revoked or suspended upon the licensee's violation of local or state laws related to the business operations.

Sec. 110.02 - APPLICATION PROCEDURE; ISSUANCE.

(a) Application for a license *shall* be made upon forms provided by the Tax Collector and *shall* be verified by the affidavit of the applicant made before a notary public or other *person* duly authorized by law to administer *oaths*. The application *shall* contain the information required under *G.S.* 105-113.70, and *shall* require the applicant to state whether he has, during the *preceding* license *year*, committed any act or permitted any condition for which his license was, or might have been, revoked or suspended.

(b) If from the statements and information provided in the application the applicant appears to possess all requisite qualifications under law, including a statement that he has not during the *preceding* license *year*, committed any act or permitted any condition for which his license was, or could have been revoked or suspended, thereby making issuance of the license mandatory pursuant to *G.S.* 105-113.70, the Tax Collector *shall* issue the applicant a license.

Sec. 110.03 - RETAIL TAX.

(a) Licenses issued by the *Town* under the authority of *G.S.* 105-113.77, as amended, *shall* be restricted to on-premises and off-premises as prescribed by G.S. 18B.

(b) Every *person* engaged in the business of selling malt beverages, as defined in *G.S.* 18B-101(9), as amended, *shall* pay an annual license tax as follows:

(1)	For "on-premises" malt beverages	$15.00
(2)	For "off-premises" malt beverages	5.00

(c) Every *person* engaged in the business of selling fortified wine, as defined by *G.S.* 18B-101(7), as amended, and or selling unfortified wine, as defined by *G.S.* 18B-101(15), as amended, *shall* pay an annual license tax as follows:

(1)	For "on-premises" unfortified wine, "on premise" fortified wine, or both	$15.00

(2)	For "off-premises" unfortified wine, "off-premises" fortified wine, or both	10.00

(d) If any person maintains more than one place of business from which retail malt beverages or fortified wine is sold, a separate license tax *shall* be paid for each separate place of business.

(e) The tax stated is for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license.

Sec. 110.05 - WHOLESALE TAX.

Every *person* selling at wholesale in barrels, bottles, or other containers, in quantities of not less than one case or container to a customer within the *Town*, *shall* pay therefor an annual tax as follows:

(1)	Where such wholesaler sells at wholesale only malt beverages or wine as defined in *G.S.* 18B-101, as amended, the tax *shall* be, per annum	$37.50
(2)	Where such wholesaler sells at wholesale both malt beverages and wines as defined in *G.S.* 18B-101, the tax *shall* be, per annum	$62.50

(3) If any wholesaler maintains more than one place of business or storage warehouse from which orders are received or beverages are distributed, a separate license tax *shall* be paid for each separate place of business or warehouse.

(4) The *owner* or operator of every distributing warehouse selling, distributing or supplying to retail stores beverages enumerated in this section *shall* be deemed wholesale distributors within the meaning of this section and *shall* be liable for the tax imposed hereby.

Sec. 110.06 - DURATION; NO PRORATION.

Every license issued under this article *shall* expire on the thirtieth day of April of each *year*. The taxes paid under this Chapter are not prorated.

Sec. 110.07 - PENALTIES.

(a) Any *person* violating any subsection of this Chapter shall be guilty of a class 3 misdemeanor and, upon conviction, shall be subject to punishment in accordance with G.S. 14-4. Unless otherwise provided, the maximum fine for a misdemeanor violation is $500. Each day's continuing violation shall be a separate and distinct offense.

(b) In addition to criminal enforcement, the Town may seek any remedies allowed under G.S. 160A-175, including but not limited to an injunction.

(c) If payment is not timely made, there shall be assessed an additional tax equal to ten (10) percent of the amount due for the first thirty (30) days and twenty (20) percent of the amount due after

thirty (30) days but in no event shall any late assessment be less than $5.00. The Town may further seek collection of amounts due through the remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207 and in the same manner and to the same extent as apply to taxes levied by the State as stated in G.S. 105-109 as per the provisions of G.S. 105-242.