

PART 3

ALCOHOLIC BEVERAGES

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SECTION 3-101 PURPOSES OF CHAPTER.

This chapter is enacted as an exercise of the police power of the city to preserve the public peace, safety, health and good order thereof, and to aid the enforcement of the policy of the state as established by the Oklahoma Alcoholic Beverage Control Act, Sections 501 et seq. of Title 37 of the Oklahoma Statutes, and to establish annual occupation taxes upon all persons engaged in the manufacture, sale or distribution of alcoholic beverages. (Prior Code, Chapter D, in part)

State Law Reference: State alcoholic beverage regulations, generally, 37 O.S. Sections 501 et seq.

SECTION 3-102 TERMS AND PHRASES.

For the purpose of this chapter, all of the terms and phrases used in this chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act. "Minor" shall mean a person who, in accordance with state law, has not yet attained the age at which consumption of alcoholic beverages is permitted. "State licensee" means any person who holds a license issued under authority of the Oklahoma Alcoholic Beverage Control Act. (Prior Code, Chapter D, in part)

SECTION 3-103 OCCUPATION TAX.

A. There is hereby levied an annual tax not to exceed the amounts indicated below upon the occupations named:

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| 1. | Brewer | \$1,250.00; |
| 2. | Distiller | 3,125.00; |

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| 3. | Wine maker | 625.00; | |
| 4. | Oklahoma wine maker | 75.00; | |
| 5. | Rectifier | 3,125.00; | |
| 6. | Wholesaler | 2,500.00; | |
| 7. | Class B wholesaler | 625.00; | |
| 8. | Package store | 600.00; | |
| 9. | Mixed Beverage | 1,000.00 initial; 900.00 renewal; | |
| 10. | Caterer | 1,000.00 initial; 900.00 renewal; | |
| 11. | Special Event-per day | 50.00; | and |
| 12. | Mixed beverage limited to the sale of beer and wine as defined by Section 506 of Title 37 of the Oklahoma Statutes | \$250.00 initial; \$150.00 renewal. | |

B. The occupation tax for those service organizations which are exempt under Section 501(c)(19) of the Internal Revenue Code for mixed beverage or bottle club license shall be Five Hundred Dollars (\$500.00) per year.

C. If a brewer of a Class B wholesale also holds a license from the state to manufacture or wholesale any nonintoxicating malt beverage then the occupation tax for such brewer or Class B wholesaler shall be reduced by seventy-five percent (75%). (Prior Code, Chapter D, in part)

State Law Reference: City license fees, not to levy greater than state licenses, 37 O.S. Section 518.

SECTION 3-104 PAYMENT REQUIRED: PENALTY.

A. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of the city manager or his designee on or before the date upon which he enters upon such occupation. The licensee shall provide a copy of his current state license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April.

B. The occupation tax subject to this chapter shall be prorated on a monthly basis for the year in which an occupation begins operations.

C. Upon payment of the occupation tax, the city manager or his designee shall issue a receipt to the state licensee which licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.

D. Any person who engages in any of the occupations taxed by this chapter without paying the occupation tax imposed therefor in advance of such operation, is guilty of an offense against the city and, upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Each day of such violation shall constitute a separate offense. (Prior Code, Chapter D, in part)

SECTION 3-108 CONDITION OF SALE.

A. No person shall sell or deliver alcoholic beverages out of any retail alcoholic beverage store other than:

1. In retail containers;
2. At ordinary room temperatures;
3. In the original package; and
4. For consumption off the premises.

B. No person owning, employed in, or in any manner assisting in the maintenance and operation of such a store shall suffer, or permit any alcoholic beverage to be consumed, or any retail container of such beverage to be opened on the premises of such a store. (Prior Code, Chapter D, in part)

SECTION 3-109 CONSUMPTION PROHIBITED, WHERE.

No person shall drink or consume in any manner any alcoholic beverage on the premises of a retail alcoholic beverage package store, nor in any other public place. Neither shall a person open or break the seal of any original package or retail container containing alcoholic beverages on the premises of any such retail beverage store. (Prior Code, Chapter D, in part)

SECTION 3-110 COMPLIANCE REQUIRED.

No person shall sell at retail or otherwise, and no person shall deliver, in consequence of or in completion of such a sale, any alcoholic beverages at any place in the city except at a retail alcoholic beverage store in strict conformity with this chapter and the laws of the state. (Prior Code, Chapter D, in part)

SECTION 3-111 COMPLIANCE WITH ZONING REGULATIONS REQUIRED.

No retail alcoholic beverage package store, no bottle club, and no wholesale alcoholic beverage store, warehouse, brewery, distillery, winery or any other place, however described, and for the manufacture or production or bottling of alcoholic beverages of any kind, shall be located, maintained, or operated by any person, at any place within the boundaries of the city except at a location at which such an establishment is permitted or authorized by the zoning ordinances of the city. No person shall own, operate, maintain or be interested in any retail alcoholic beverage store which is located at a place within the city limits of the city which is in violation of or forbidden as a location by the city or under the laws of the state. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 534.

SECTION 3-112 PROHIBITED LOCATION.

The location of a retail package store, mixed beverage establishment or bottle club is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or public school. If any such church, or school, shall be established within three hundred (300)

SECTION 3-105 ANNUAL REPORT.

The city clerk shall make an annual report to the Alcoholic Beverage Laws Enforcement (ABLE) Commission, covering the fiscal year, showing the number and class of licensees subject to the occupation tax and the amount of money collected from the tax. (Prior Code, Chapter D, in part)

SECTION 3-106 APPLICATION FOR CERTIFICATE, INVESTIGATIONS.

A. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city required by Title 37 of the Oklahoma Statutes shall apply at the office of the clerk by:

1. Filing a written application on forms prescribed by that office; and
2. Paying a verification and certification fee in the amount as set by the council at the time of filing.

B. Upon receipt of an application for a certificate of compliance the city manager or his designee shall cause an investigation to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building and other safety codes applicable to it.

C. The city manager shall act on all such applications within twenty (20) days of receipt thereof. (Prior Code, Chapter D, in part)

State Law Reference: Certificates issued by city prior to state licensing, 37 O.S. Section 523.

SECTION 3-107 ISSUANCE OF CERTIFICATE OF ZONING AND CERTIFICATE OF COMPLIANCE.

A. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE Commission.

B. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable fire, safety, and health codes, a certificate of compliance shall be issued to the ABLE Commission.

C. The above certificates of compliance shall be signed by the mayor or by the city manager or his designee.

D. A conditional certificate may be granted if construction, modification or alteration of the premises proposed for licensed operations is not completed. The conditional certificate shall indicate that the proposed premises will comply with city zoning, fire, safety and health codes. A certificate in accordance with Subsections A and B of this section shall be issued within ten (10) days after all final inspections are complete. (Prior Code, Chapter D, in part)

SECTION 3-108 CONDITION OF SALE.

A. No person shall sell or deliver alcoholic beverages out of any retail alcoholic beverage store other than:

1. In retail containers;
2. At ordinary room temperatures;
3. In the original package; and
4. For consumption off the premises.

B. No person owning, employed in, or in any manner assisting in the maintenance and operation of such a store shall suffer, or permit any alcoholic beverage to be consumed, or any retail container of such beverage to be opened on the premises of such a store. (Prior Code, Chapter D, in part)

SECTION 3-109 CONSUMPTION PROHIBITED, WHERE.

No person shall drink or consume in any manner any alcoholic beverage on the premises of a retail alcoholic beverage package store, nor in any other public place. Neither shall a person open or break the seal of any original package or retail container containing alcoholic beverages on the premises of any such retail beverage store. (Prior Code, Chapter D, in part)

SECTION 3-110 COMPLIANCE REQUIRED.

No person shall sell at retail or otherwise, and no person shall deliver, in consequence of or in completion of such a sale, any alcoholic beverages at any place in the city except at a retail alcoholic beverage store in strict conformity with this chapter and the laws of the state. (Prior Code, Chapter D, in part)

SECTION 3-111 COMPLIANCE WITH ZONING REGULATIONS REQUIRED.

No retail alcoholic beverage package store, no bottle club, and no wholesale alcoholic beverage store, warehouse, brewery, distillery, winery or any other place, however described, and for the manufacture or production or bottling of alcoholic beverages of any kind, shall be located, maintained, or operated by any person, at any place within the boundaries of the city except at a location at which such an establishment is permitted or authorized by the zoning ordinances of the city. No person shall own, operate, maintain or be interested in any retail alcoholic beverage store which is located at a place within the city limits of the city which is in violation of or forbidden as a location by the city or under the laws of the state. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 534.

SECTION 3-112 PROHIBITED LOCATION.

The location of a retail package store, mixed beverage establishment or bottle club is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or public school. If any such church, or school, shall be established within three hundred (300)

feet of any licensed premises after such premises have been licensed, this shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. The distance indicated in this section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store, mixed beverage establishment or bottle club along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 518.2.

SECTION 3-113 PROHIBITED SALES.

A. No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the city limits of the city to any person who is a minor. Neither shall any minor misrepresent his age verbally or in writing, or present false documentation of age or otherwise for the purpose of inducing any other person to sell him alcoholic beverages.

B. No person shall sell, deliver or knowingly furnish alcoholic beverage or beverages within the city to an intoxicated person or to any person who has been adjudged insane or mentally deficient. (Prior Code, Chapter D, in part)

SECTION 3-114 TRANSPORTING BEVERAGES.

It is unlawful to transport any alcoholic beverage, unless the same is:

1. In an unopened original container with seal unbroken, and the original cap or cork not removed from the container; or
2. In the trunk or other closed compartment or container out of public view and out of reach of and not accessible to the driver or any occupant of a vehicle.

(Prior Code, Chapter D, in part)

SECTION 3-115 PROHIBITED EMPLOYMENT.

No minor shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within the city. No person shall employ or assist or aid in causing the employment of any minor at any place within the city in the selling, manufacture, distribution or other handling of alcoholic beverages. No minor shall be permitted to remain within or to loiter about the premises of a retail alcoholic beverage store. Violation of this provision shall subject the owner or proprietor, as well as the underage person, to prosecution. (Prior Code, Chapter D, in part)

SECTION 3-116 DATES, HOURS ON WHICH SALE PROHIBITED.

A. No person shall open for business or keep open for business or sell or deliver alcoholic beverages, as defined herein, to any person at a retail alcoholic beverage store in the city on any Sunday, New Year's Day, Memorial Day, Fourth of

July, Labor Day, Veteran's Day, Thanksgiving Day or Christmas Day, or while the polls are open on the day of any general, primary, run-off primary or special election, whether national, state, county, or city, or any other day except between the hours of 10:00 A.M. and 9:00 P.M.

B. No wholesale dealer in alcoholic beverages, and no officer, agent or employee of such a dealer shall sell or deliver to any retail alcoholic beverage store within the city any amount of spirits or wines on Saturday of any week, on Sunday of any week, on New Year's Day, on Memorial Day, on the Fourth of July, on Labor Day, on Veteran's Day, on Thanksgiving Day, on Christmas Day, or, while the polls are open on the day of any general, primary, run-off primary, or special election, whether national, state, county or city. (Prior Code, Chapter D, in part)

SECTION 3-117 DRINKING AND INTOXICATION IN PUBLIC PLACE PROHIBITED.

No persons, within this city shall drink intoxicating liquor in any public place, nor shall any person be intoxicated in a public place within this city. (Prior Code, Chapter D, in part)

SECTION 3-118 NOT TO PERMIT INTOXICATED PERSON IN CAFE, CLUB.

No person operating a cafe, restaurant, club, or any place of recreation within this city, and no employee engaged in connection with the operation of such a cafe, restaurant, club or place of recreation shall permit any person to be drunk or intoxicated in the place of business. (Prior Code, Chapter D, in part)

SECTION 3-119 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the city, and, upon conviction of such an offense the violator shall be punished as provided in Section 1-108 of this code. (Prior Code, Chapter D, in part)

CHAPTER 2

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| Section 3-208 | Not to permit minors to frequent bars, beer halls or taverns. |
| Section 3-209 | Unlawful transportation of nonintoxicating beverage. |
| Section 3-210 | Prohibited location. |
| Section 3-211 | Penalty. |

SECTION 3-201 DEFINITIONS.

In the administration of this chapter, the following words and phrases are given the meanings respectively indicated:

1. "Minor" means a person who, according to state law, has not yet attained the age at which consumption of nonintoxicating beverages is permitted under state law;
2. "Nonintoxicating beverages" means all beverages containing more than one-half of one percent (.5%) alcohol by volume and less than three and two-tenths percent (3.2%) alcohol by weight;
3. "Place of business" means each separate location or service unit in which or from which nonintoxicating alcoholic beverages are sold, delivered or otherwise furnished; and
4. "Retail dealer" means and includes any person who sells any non-intoxicating alcoholic beverage as defined herein for consumption or use and not for resale.

(Prior Code, Chapter D, in part)

State Law Reference: See 37 O.S. Sections 163.1 et seq. for definitions and regulations applicable to nonintoxicating beverages.

SECTION 3-202 HOURS OF SALE.

It is unlawful for any owner, firm, person, operator, corporation, proprietor, or manager of any beer tavern, beer garden, beer hall, tap room or any other premises or place in which the principal business is that of selling nonintoxicating beverages for consumption on the premises to barter, sell, dispense or otherwise furnish non-intoxicating beverages for consumption on the premises of his place of business between the hours of 2:00 A.M. Sunday and 7:00 A.M. on the following Monday or between the hours of 2:00 A.M. and 7:00 A.M. on any other day. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 213.

SECTION 3-203 LICENSE FEES.

There is hereby levied on each retail dealer in nonintoxicating beverages within the city selling such beverages for consumption on or off the premises of the dealer's place of business, a license fee of Twenty Dollars (\$20.00) per annum, and on each retail dealer selling such beverages exclusively in original packages (of not less than case lots) and not for consumption on his premises, a license fee of Ten Dollars (\$10.00) per annum. A separate license fee shall be paid for each place of business, as herein defined, operated and conducted by the retail dealer. (Prior Code, Chapter D, in part)

State Law Reference: State license fee, city not to levy greater fee, 37 O.S. Section 163.7.

SECTION 3-204 LICENSE REQUIRED.

A. It is unlawful and an offense for any person to sell, distribute or dispense within the city any nonintoxicating beverages to the public for consumption or use without first having obtained a license therefor from the city clerk. Every person desiring to engage in business as a retail dealer in nonintoxicating beverages or to continue in the business within the city shall make application to the city clerk on forms to be provided, setting forth the locations of the business, together with the applicant's address, and if a corporation, the name of the president and managing officer. The application shall show the date and permit number of the permits issued by the district court judge and the Oklahoma Tax Commission as required by law.

B. Upon a showing that the applicant has obtained his permits from the district court judge and the Oklahoma Tax Commission and after payment of the license fee to the city such license shall be issued forthwith. All licenses shall expire annually as set by the city. Licenses issued hereunder shall not be assignable or transferable. The city license shall be displayed in the licensee's place of business. The license may be cancelled for any violation of the laws of the state for which the licensee's county or state license may be cancelled, and in a similar manner. (Prior Code, Chapter D, in part)

SECTION 3-205 NOT TO SELL TO MINORS.

It is unlawful for any person to sell, offer, give away, procure for, barter or otherwise dispense to any minor any nonintoxicating beverage, or for any minor to purchase, receive, or procure any nonintoxicating beverage. (Prior Code, Chapter D, in part)

SECTION 3-206 POSSESSION BY MINORS.

A. "Possession" under the terms of this chapter shall consist of actual physical possession and shall further include any nonintoxicating alcoholic beverage or beer accessible or within the range of reach of hands of any such person.

B. It is unlawful for a minor to be in possession of any nonintoxicating beverage while such person is upon any public street, avenue, alley, road, highway or public building or place. (Prior Code, Chapter D, in part)

SECTION 3-207 PERSONS UNDER EIGHTEEN (18) NOT TO BE EMPLOYED.

A. It is unlawful for any owner, manager, operator or employee of a place where nonintoxicating beverages are sold for consumption on the premises to employ a person under eighteen (18) years of age to work in such place; or for any person under eighteen (18) years of age to work in such place. This subsection shall not apply to any licensed premises where sales of nonintoxicating beverage do not exceed twenty-five percent (25%) of the gross sales of the licensee.

B. It is unlawful for any minor to be employed or permitted to work in any capacity whatsoever in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of nonintoxicating beverages. This subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of nonintoxicating beverages are incidental to the main purpose. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 243.

SECTION 3-208 NOT TO PERMIT MINORS TO FREQUENT BARS, EXCEPTIONS.

A. The owner of any bar, beer hall, tavern, or other place wherein any nonintoxicating beverage is dispensed for consumption on the premises shall not permit any minor to be admitted to, enter or to remain in a separate enclosed bar area of the licensed premises which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises unless the person's legal guardian or parent is present, nor shall any minor enter or remain about such separate or enclosed bar area.

B. This section shall not prohibit minors from being admitted to, entering or remaining in an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of nonintoxicating beverages are incidental to the main purpose, if the minors are not sold or served or do not consume nonintoxicating beverages. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Sections 241, 246.

SECTION 3-209 UNLAWFUL TRANSPORTATION OF NONINTOXICATING BEVERAGE.

It is unlawful for any person knowingly to transport in any moving vehicle upon a public street or alley, or any public way within this city any nonintoxicating beverage unless it is:

1. In the original container which shall not have been opened and from which the original cap or seal shall not have been removed; or

2. If it is in an opened container, the opened container is in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or to any other person in the vehicle while it is in motion.

(Prior Code, Chapter D, in part)

SECTION 3-210 PROHIBITED LOCATION.

It is unlawful for any place licensed to sell nonintoxicating beverages for on-premise consumption to be located within three hundred (300) feet from any public school or church property primarily and regularly used for worship services and religious activities. If any public school or church shall be established within three hundred (300) feet of any place which sells nonintoxicating beverages for on-premise consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days. The distance indicated in this section shall be measured from the nearest property line of such public school or church to the nearest public entrance door of the premises of any place licensed to sell such nonintoxicating beverages for on-premise consumption along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such public school or church shall be considered as if it were located on the same side of the street with the school or church. The above restrictions shall not affect premises already licensed as of the initial effective date of this section to sell nonintoxicating beverages for on-premise consumption or premises which may presently or in the future be licensed to sell nonintoxicating beverages for on-premise consumption even though a school or church is subsequently established within three hundred (300) feet of such licensed premises. (Prior Code, Chapter D, in part)

State Law Reference: Similar provisions, 37 O.S. Section 163.24.

SECTION 3-211 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the city, and, upon conviction of such an offense the violator shall be punished as provided in Section 1-108 of this code. (Prior Code, Chapter D, in part)