

Alcoholic Beverages

PART 3

ALCOHOLIC BEVERAGES

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SECTION 3-101 DEFINITIONS.

A. Definition of terms used in this chapter shall be in conformity with those provided in Section 506 of Title 37 of the Oklahoma Statutes.

B. As used herein:

1. "ABLE Commission" means the Alcoholic Beverage Laws Enforcement Commission of the state;

2. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but does not include nonintoxicating beverages as that term is defined in Sec. 3-201 of this chapter;

3. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and serve alcoholic beverages belonging to club members or club premises; it includes any association, person, firm or corporation, key club, locker club, pool club, or any other kind of club or association, excluding the general public from its premises or place of meeting or congregating or operating or exercising control over any other place where persons are permitted to drink alcoholic beverages other than in a private home.

State Law Reference: Alcoholic Beverage Control Act, 37 O.S. Secs. 501 et seq.; town

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Powers generally as to alcoholic beverages, 37 O.S. Sec. 503.

SECTION 3-10 AMOUNT OF TAX.

A. There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and pursuant to the provisions of Section 554.1 of Title 37 of the Oklahoma Statutes in the amount as set by the town board of trustees:

1.	Brewer	\$1,250.00;
2.	Distiller	3,125.00;
3.	Winemaker	625.00;
4.	Oklahoma winemaker	75.00;
5.	Rectifier	3,125.00;
6.	Wholesaler	2,500.00;
7.	Class B Wholesaler	625.00;
8.	Retail package store	600.00;
9.	Mixed beverage establishment	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 bottle club licenses shall be Five Hundred Dollars (\$500.00). The occupation tax for a brewer and a class "B" wholesaler shall be reduced by seventy-five percent (75%) if the brewer or class "B" wholesaler is also the holder of a license from the state to manufacture or wholesale any nonintoxicating malt beverages as provided in Section 518 of Title 37 of the Oklahoma Statutes.

C. The occupation tax levied herein shall be paid in advance annually, on or before July 1, to the town clerk, who shall issue a receipt therefor. The tax shall be prorated on a monthly basis for the year in which an occupation begins operations.

D. Upon payment of the occupation tax, the town clerk shall issue a receipt, signed by the town clerk, to the state licensee paying such occupational tax. The town clerk shall also record the name of the licensee and the address where the licensee engages in his occupation. Such record shall be duly filed and kept in the permanent files of the town for at least five (5) years. Thereafter, upon resolution by the board of trustees, it may be destroyed.

E. Any state licensee shall post his tax receipt in a conspicuous place on the premises wherein he carries on his occupation.

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F. The occupation tax shall cover only the person paying the tax and no other of a successor thereof, and shall not be refundable.

G. The town clerk shall make and transmit to the ABLE commission an annual report showing the number and class of licenses subject to the tax and the amount of money received therefrom.

H. All sums due from any person by reason of occupation taxes imposed by this chapter and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable at the suit of the town, brought against such person in any court of competent jurisdiction. In any suit, in addition to the tax and penalties, the plaintiff shall recover interest, at the rate of ten percent (10%) per annum, upon all sums due by way of tax and penalty from the date of accrual thereof, and all costs of collection, judicial or otherwise, including reasonable attorney's fees, all to be determined by the court. Prosecution for an offense against the town, arising out of the failure to pay a tax levied by this chapter, regardless of the outcome thereof or its continued pendency, shall not constitute a defense or bar in any manner to the collection of the tax and penalties, if any are due, as herein provided.

State Law Reference: Cities may levy occupation tax not to exceed state fee, 37 O.S. Sec. 554.1; state license fee amounts, 37 O.S. Sec. 518.

SECTION 3-103 APPLICATION FOR LICENSE, CONDITIONS.

A. Every person desiring to obtain a license as provided for herein shall make application to the town clerk on forms to be provided setting forth the location of the business, the names of all persons interested in the business, together with their addresses; if a corporation, the application shall include the names of the president and managing officer.

B. No licensee shall be issued a license without satisfactory showing that the applicant has:

1. Satisfied the conditions of this chapter;
2. Obtained all applicable state and county permits or licenses; and
3. Paid the tax as required herein.

C. No license shall be issued or valid unless the licensee meets the requirements of the town's zoning ordinances and regulations.

SECTION 3-104 APPLICATION FOR CERTIFICATE OF ZONING AND CODE COMPLIANCE.

A. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the town required by Title 37 of the Oklahoma Statutes shall apply at the office of the town 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 board of trustees at the time of filing.

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B. Upon receipt of an application for a certificate of compliance, the town clerk-treasurer 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 or other safety codes applicable to it.

C. 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.

D. 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.

E. The town board shall act on such applications within twenty (20) days of receipt thereof. The above certificates of compliance shall be signed by the mayor.

SECTION 3-105 COMPLIANCE WITH STATE AND TOWN LAW.

No person shall own, operate or maintain a retail package store or mixed beverage establishment, or produce, manufacture, distribute, rectify, bottle or sell any beer, spirits, wine or other alcoholic beverage, without first obtaining valid licenses issued by the state and the town.

SECTION 3-106 SALE TO MINOR PROHIBITED, MINORS PROHIBITED FROM PREMISES.

A. No person shall sell, deliver, furnish or give any alcoholic beverage to any person under the age of twenty-one (21) years, except that this sentence shall not apply to a parent or guardian as regards his child or children.

B. No licensee shall permit any person under twenty-one (21) years of age to enter, remain within or be about the premises of a retail package store or mixed beverage establishment.

C. No person under twenty-one (21) years of age shall enter, remain within or be about the premises of a retail package store or mixed beverage establishment.

SECTION 3-107 TRANSPORTATION OF INTOXICATING BEVERAGES IN VEHICLES; EXCEPTION.

A. No person shall knowingly transport alcoholic beverages in any vehicle upon any public highway, street or alley unless in the original container which is unopened, the seal unbroken and the original cap in place.

B. Subsection A of this section shall not apply if the opened container is in the rear trunk or compartment or the spare tire compartment in a vehicle commonly known as a station wagon or panel truck, or in any outside compartment which is inaccessible to the driver or any passenger while the vehicle is in motion.

State Law Reference: Similar provisions, 37 O.S. Sec. 537.

SECTION 3-108 GENERAL PROHIBITIONS.

A. No person shall:

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1. Purchase any alcoholic beverage at retail or wholesale from any person other than a dealer licensed by the ABLE Commission;

2. Except as otherwise permitted in this chapter, drink any alcoholic beverage in public except on the premises of a licensee who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place; or

3. Open a container of intoxicating beverages or consume alcoholic beverages on the premises of a retail package store; or

4. Possess more than one quart of any alcoholic beverage unless the state tax has been paid thereon, except as may be otherwise provided by law.

B. No licensee shall:

1. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition; or

2. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

a. Deliver more than two (2) drinks to one person at one time;

b. Sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;

c. Sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;

d. Sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

e. Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or

f. Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

C. No licensee shall:

1. Allow any person on the premises where nonintoxicating or alcoholic beverages are sold or dispensed for consumption on the premises of the licensee where such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic area, buttocks or genitalia;

2. Permit any person to perform acts of, or acts which simulate sexual acts;

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3. Permit any person to use artificial devices or inanimate objects to depict any lewd activities; or

4. Permit the showing of films, still pictures, electronic reproduction or other visual reproduction depicting any of the prohibited acts in this section.

D. No licensee shall permit any drink solicitation, or request from a patron to purchase any nonintoxicating or intoxicating alcoholic beverage for consumption on the premises of the licensee, as that term is defined in this chapter.

State Law Reference: Similar provisions, 37 O.S. Sec. 537.

SECTION 3-109 CONSUMPTION OF INTOXICATING ALCOHOLIC BEVERAGE IN PUBLIC PLACES.

No person within the town shall drink intoxicating liquor in any public place, unless authorized by the Alcoholic Control Beverage Act, nor shall any person be intoxicated in a public place within the town.

SECTION 3-110 MISREPRESENTATION OF AGE.

No person shall misrepresent his age either orally or in writing or by presenting false or altered documentation of age for the purpose of inducing any person to sell him alcoholic beverages.

Cross Reference: Misrepresentation of age by false documents generally, Sec. 10-508; nonintoxicating beverages, see Sec. 3-212 of this code.

SECTION 3-111 EMPLOYMENT OF PERSONS UNDER AGE OF TWENTY-ONE (21) PROHIBITED.

No licensee shall employ, assist or aid in causing the employment of any person under the age of twenty-one (21) years in the selling, manufacture, distribution or other handling of alcoholic beverages. However, a mixed beverage, caterer, or special event licensee may employ servers who are eighteen (18) years of age or older, except in designated bar or lounge areas.

SECTION 3-112 PERSONS UNDER AGE TWENTY-ONE (21) IN POSSESSION OF INTOXICATING BEVERAGES IN PUBLIC PROHIBITED.

No person under age twenty-one (21) years of age shall be in possession of any alcoholic beverage while such person is upon any public street, road, highway or in any public place.

SECTION 3-113 LOCATION OF RETAIL PACKAGE STORE AND MIXED BEVERAGE ESTABLISHMENTS, EXCEPTIONS.

A. No person shall own, operate, maintain or have any interest in any retail package store which is located at a place in this town which is forbidden as a location for such store by state laws or town ordinances.

B. The location of retail package store or mixed beverage establishment 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

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be established within three hundred (300) feet of any licensed premises after such premises had been licensed, this shall not be a bar to renewal of such license by Alcoholic Beverage Laws Enforcement Commission so long as it has been in continuous force and effect. The distance 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 or mixed beverage establishment along the street right-of-way line providing the nearest direct route usually travelled by pedestrians between such points. A retail package store or mixed beverage establishment shall not be located on any town block where a church or school is located.

State Law Reference: Similar provisions, 37 O.S. Sec. 518.2; Location as zoning classification, 37 O.S. Sec. 528.2.

SECTION 3-114 HOURS OF OPERATION.

A. No package store licensee shall sell or keep a package store premises open for the purpose of selling any alcoholic beverages at any hour than between the hours of 10:00 A.M. and 9:00 P.M., Monday through Saturday.

B. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a bottle club between the hours of 2:00 A.M. and 10:00 A.M. No licensee shall permit any person, who has in his possession an open container, having as its contents an intoxicating alcoholic beverage, to remain in bottle club between the hours of 2:15 A.M. to 10:00 A.M. No person, having in his possession an open container, having as its contents an intoxicating alcoholic beverage, shall remain in mixed beverage establishment between the hours of 2:15 A.M. to 10:00 A.M. For the purpose of this section, an open container shall mean any receptacle containing nonintoxicating or intoxicating alcoholic beverage, to include the original container of the beverage where the original seal has been broken or opened.

SECTION 3-115 PACKAGE STORE PREMISES TO BE SEPARATED FROM PREMISES WHERE OTHER BUSINESS CONDUCTED.

No person shall maintain, operate, or assist in any manner in the maintenance or operation of a package store upon premises which are not separated from adjoining premises, on which any other goods, wares or merchandise are sold or services are rendered, by nontransparent walls, broken only, if at all, by a passage to which the public is not admitted. No person shall take any alcoholic beverage through such passageway for the purpose of selling or reselling such beverage, or for the purpose of delivery thereof in connection with a sale of such beverage.

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

SECTION 3-116 SALE OR DELIVERY PROHIBITED ON CERTAIN DAYS.

A. No licensee shall engage in retail sale of alcoholic beverages on such days and times as prohibited by the state law.

B. No wholesale dealer in alcoholic beverages shall sell or deliver to any package store and no package store shall sell any amount of spirits or wines on Sunday of any week or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day, or at any time while the polls are open on the day of any general, primary, runoff primary or special election, whether national, state, county or town.

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Section 3-212	Misrepresentation of age by false or altered documentation.
Section 3-213	Inspections.
Section 3-214	Location of retail dealers.

SECTION 3-201 DEFINITIONS.

As used herein:

1. "Low-point beer" means all beverages containing more than one-half of one (0.5) percent alcohol by volume, and not more than three and two-tenths (3.2) percent alcohol by weight;
2. "Minor" means a person who, in accordance with state law, has not yet attained the age at which the consumption of low-point beer is permitted; and
3. "Retail dealer" means and includes any and all persons who sell, distribute or dispense any low-point beer at retail to the public for consumption or use, whether consumed on the premises or not.

State Law Reference: Manufacture and sale of low-point beer, 37 O.S. Secs. 163.1, et seq.

SECTION 3-202 STATE LICENSES.

No person shall engage in the business of selling, offering for sale or distributing any low-point beer, at retail, for consumption or use, without first having obtained a state license to do so, and in cases where such beverages are consumed on the premises, a license as provided by the statutes of the state.

SECTION 3-203 RETAIL DEALER'S LICENSE REQUIRED; LICENSE FEES.

A. No person shall sell, distribute or dispense any low-point beer at retail to the public without first having obtained a license to do so from the town, and making payment in advance to the town clerk in the amount as provided herein.

B. The annual fee shall be set by the town board by motion or resolution for a license

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under this chapter for retail dealers selling low-point beer for consumption on or off the premises, and retail dealers selling low-point beer in original packages and not for consumption on the premises. The license shall expire annually on June 30.

C. No license issued hereunder is transferable.

D. Licenses required by this chapter shall be issued by the town clerk upon payment of the required fee and compliance by the applicant with all applicable ordinances of the town, and upon a satisfactory showing that the applicant has obtained such state and county permits as are required by law.

State Law Reference: State licenses cities not to levy greater than state fee, 37 O.S. Sec. 163.7

Ed. Note: See Fee Schedule.

SECTION 3-204 APPLICATION FOR LICENSE.

An applicant for a retail dealer's license or renewal of such license shall deposit the required fee with the town clerk and submit an application on the form provided containing the information required by the town.

SECTION 3-205 MINORS ON PREMISES PROHIBITED, EXCEPTIONS.

A. It is unlawful for any person who holds a license to sell and dispense low-point beer for consumption on the premises, or any agent, servant, or employee of the license holder, to permit any minor to be admitted to or remain in a separate or enclosed bar area of the licensed premises which has as its main purpose the selling or serving of low-point beer for consumption on the premises, unless the minor's parent or legal guardian is present. The provisions of this section shall not prohibit minors from being admitted to an area which has as its main purpose some objective other than the sale or serving of low-point beer, in which sales or serving of the beverages are incidental to the main purpose, as long as minors are not sold or served the beverages; however, the incidental service of food in the bar area shall not except a licensee, agent, servant, or employee from the provisions of this section.

B. If the premises of a holder of a license to sell low-point beer contains a separate or enclosed bar area which has as its main purpose the sale or serving of low-point beer for consumption on the premises, no minor shall enter, attempt to enter, or remain in the area. The provisions of this subsection shall not prohibit minors from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of low-point beer, in which sales or serving of the beverages are incidental to the main purpose, if the minors are not sold or served or do not consume low-point beer anywhere on the premises; however, the incidental service of food in the bar area shall not exempt minors from the provisions of this subsection.

C. A showing by competent testimony that a minor was found upon premises of a retail dealer shall be prima facie evidence of a violation of Subsection B of this section.

State Law Reference: Similar provisions, 37 O.S. Secs. 241, 243, 246.

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SECTION 3-206 SALE OF LOW-POINT BEER TO MINOR PROHIBITED.

It is unlawful for any person who holds a license to sell and dispense low-point beer, or any agent, servant or employee of the license holder, to sell, barter or give to any minor any low-point beer. This section shall not apply to a parent as regard his own child or children.

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

SECTION 3-207 EMPLOYMENT OF PERSONS UNDER EIGHTEEN (18) YEARS. EXCEPTIONS.

A. It is unlawful for any person under eighteen (18) years of age to be employed or permitted to work, in any capacity whatsoever, in a place where low-point beer are sold or dispensed for consumption on the premises.

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 low-point beer. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of low-point beer, in which sales or serving of the beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell low-point beer for consumption on the premises from the provisions of this subsection.

C. A parent as regards the employment of his own child or children is excepted from the provisions of this section, provided that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages.

D. The provisions of Subsection A of this section shall not apply to any business or establishment where sales of the beverages do not exceed twenty-five percent (25%) of the gross sales of the business or establishment.

State Law Reference: 37 O.S. Secs. 241, 243, 246.

SECTION 3-208 SALE OF LOW-POINT BEER PROHIBITED DURING CERTAIN HOURS; EXCEPTION.

A. No retail dealer licensed to sell low-point beer shall sell such beverages for consumption on the premises on Sundays between the hours of 2:00 A.M. and 12:00 noon or between the hours of 2:00 A.M. and 7:00 A.M. on any other day.

B. No retail dealer of any business selling low-point beer, as that term is defined in this chapter, for consumption on the premises, nor any operator, agent, or employee of the retail dealer, shall permit any person, who has in his possession an open container having as its contents a low-point beer, to remain in the premises between the hours of 2:15 A.M. and 12:00 noon on Sunday, or between the hours of 2:15 A.M. and 7:00 A.M. Mondays through Saturdays. No person, having in his possession an open container having as its contents a low-point beer, shall remain in the premises between the hours of 2:01 A.M. to 7:00 A.M. Mondays through Saturdays, or between the hours of 2:01 A.M. and 12:00 noon on Sundays. For the purpose of this section, an open container shall mean any receptacle containing low-point beer or intoxicating alcoholic beverage, to include the original container of the beverage where the original seal has been broken or opened.

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State Law Reference: Town powers to regulate hours, Sunday hours, 37 O.S. Sec. 213.

SECTION 3-209 TRANSPORTATION OF LOW-POINT BEER IN MOVING VEHICLE.

No person shall knowingly transport in any moving vehicle upon a public highway, street or alley within the town any low-point beer except in the original container which shall have not been opened and from which the original cap or seal shall have not been removed, unless the opened container be 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 any other person in the vehicle while it is in motion.

State Law Reference: Similar provisions, 37 O.S. Sec. 537.

SECTION 3-210 MINORS IN POSSESSION OF LOW-POINT BEER PROHIBITED WHILE IN PUBLIC.

No minor shall be in possession of any low-point beer or beer while such person is upon any public street, building or place.

SECTION 3-211 CONSUMPTION OF LOW-POINT BEER IN PUBLIC PLACES; PENALTY; EXCEPTION.

A. No minor shall consume or possess with intent to consume low-point beer in any public place.

B. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 1-108 of this code, or by appropriate community service not to exceed twenty (20) hours.

C. The provisions of this section shall not apply when such persons are under the direct supervision of their parent or guardian; but in no instance shall this exception be interpreted to allow such persons to consume such beverages in any place licensed to dispense beer as provided for in Section 163.11 and Title 37 of the Oklahoma Statutes.

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

SECTION 3-212 MISREPRESENTATION OF AGE BY FALSE OR ALTERED DOCUMENTATION.

No person shall represent his age either orally or in writing or by presenting false or altered documentation of age for the purpose of inducing any person to sell him low-point beer.

Cross Reference: Misrepresenting age by false documents generally, Sec. 10-508 of this code; intoxicating beverages, Sec. 3-109 of this code.

SECTION 3-213 INSPECTIONS.

Town officers may make inspections of all places of business where low-point beer are sold, distributed, or dispensed at retail, for the purpose of enforcing the laws and for ascertaining whether the operators thereof are complying with the requirements of the law relating to the

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handling of low-point beer.

SECTION 3-214 LOCATION OF RETAIL DEALERS.

No person shall own, operate, maintain or have any interest in any retail dealer which is located at a place in this town which is forbidden as a location for such store by state laws or town ordinances.

State Law Reference: Similar provisions, 37 O.S. Sec. 518.2; Location as zoning classification, 37 O.S. Sec. 528.2.