

PART 3

ALCOHOLIC BEVERAGES

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§ 3-101 DEFINITIONS AND INTERPRETATIONS.

Word, phrases, and terms used in this chapter shall have the meaning prescribed by, and be construed in conformity with, the definitions of the same set forth in the Oklahoma Alcoholic Beverage Control Act, §§ 501 to 566 of Title 37 of the Oklahoma Statutes, with the same force and effect as if the definitions were set forth in full in this chapter, unless the context clearly indicates a different meaning or construction.

§ 3-102 OCCUPATION TAX LEVIED.

A. An annual occupation tax may be levied on persons engaging in the following businesses or occupations within the city in the amounts respectively indicated:

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| 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 | \$3,500.00; |
| 7. | Class B wholesaler | \$625.00; |

- 8. Retail package store \$300.00;
- 9. Bottle club (initial) \$1,000.00; and
(renewal) \$900.00.

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

C. If a brewer or a Class B wholesaler 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%).

§ 3-103 PAYMENT REQUIRED; PENALTY.

A. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefore at the office of the city clerk on or before the date upon which he enters ~on 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 clerk shall issue a receipt to the state licensee, which the 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 therefore in advance of such operation, is guilty of an offense against the city and upon conviction thereof shall be punished as provided in § 1-108 of this code.

§ 3-104 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 of licensees subject to the occupation tax and the amount of money collected from the tax.

§ 3-105 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 such amount as set by the council at the time of filing.

B. Upon receipt of an application for a certificate of compliance the mayor 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 mayor shall act in all such applications within twenty (20) days of receipt thereof.

§ 3-106 **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 clerk.

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.

§ 3-107 **RETAIL PACKAGE STORES; LOCATION.**

A. No retail package store or any other business licensed by this chapter shall be located or operated at any place except at locations permitted by the city's zoning or planning laws.

B. The location of a retail package store is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or a public school. However, if any such church or school shall be established within three hundred (300) feet of any licensed retail 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 entrance door of the premises of such package store along the street right-of-way line providing the nearest direct route usually travelled by pedestrians between such points.

For the purpose 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. A license shall not be issued for a location on any block where a school or church is located.

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

§ 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.

§ 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.

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

§ 3-110 **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.

§ 3-111 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.

§ 3-112 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.

§ 3-113 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.

§ 3-114 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.

§ 3-115 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction, shall be punished as provided in § 1-108 of this code.

CHAPTER 2

NONINTOXICATING BEVERAGES

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§ 3-201 **DEFINITIONS.**

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Minor" means a person who has not yet attained the age at which a person is permitted to consume nonintoxicating beverages under state law;
2. "Nonintoxicating beverages" means all beverages containing more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight; and
3. "Retail dealer" means any person, firm, corporation, association, or concessionaire who sells, distributes, or dispenses at retail, any nonintoxicating beverage within the corporate limits of the city, without regard as to any place where such beverages may be consumed or used.

State Law Reference: See 37 O.S. §§ 163.1 et seq. for regulations on nonintoxicating beverages.

§ 3-202 **LICENSE FEE LEVIED.**

A. There is hereby levied upon each retail dealer in nonintoxicating beverages for consumption on or off the premises an annual occupation tax of twenty dollars (\$20.00), and an annual license fee of ten dollars (\$10.00) for sale of nonintoxicating beverages which are in original packages and are not for consumption on the premises.

B. All such municipal license fees taxes shall be paid to the city clerk at the time of issuance of license and in the manner prescribed herein.

C. All license fees levied under the provisions of this chapter shall expire on April 30 of each year. The amount of any license fee levied shall be computed pro rata from the months remaining in the year ending April 30. Such fees paid on or before the 15th day of any month shall be on the basis of the first day of the month and such fees paid after the 15th day of the month shall be on the basis of the first day of the next succeeding month.

State Law References: State license requirements, cities not to levy more than state license, 37 O.S. § 163.7.

Cross Reference: See also § 3-102 for retail package stores and § 9-101 for other occupational taxes.

§ 3-203 **LICENSE REQUIRED.**

It is unlawful for any retail dealer, whether permanent or temporary, to sell, distribute, or dispense any nonintoxicating beverages without having first received a municipal license as herein required.

§ 3-204 **COMPLIANCE WITH LAW; EXPIRATION OF LICENSE.**

No municipal license shall be issued to any retail dealer by the city clerk without a satisfactory showing that the applicant has obtained all state and county permits required by law, and has in all other respects complied with the state and local alcoholic beverage control requirements. No license shall be transferable.

§ 3-205 **REVOCAION OF LICENSE.**

The city council shall have power, after public hearing, to revoke any license granted hereunder for violation of law or ordinance by the license holder.

§ 3-206 **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.

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

§ 3-207 **SALE AND PURCHASE TO OR BY MINORS.**

It is unlawful for any person, firm or corporation to sell, offer for sale, give a way, procure for; or otherwise dispense to any minor any nonintoxicating beverage; or for any minor to purchase, receive or procure any nonintoxicating beverage.

§ 3-208 **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.

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

§ 3-209 **MINORS; POSSESSION OF ALCOHOLIC BEVERAGES OR BEER PROHIBITED.**

It is unlawful and an offense for any minor to be in possession of any nonintoxicating beverages while such person is on any public street, road or highway, or in any public building or place.

§ 3-210 **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.

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

§ 3-211 **INTOXICATED PERSONS; GAMBLING; DISORDERLY CONDUCT.**

A. It is unlawful for the owner, manager, or operator of a place where nonintoxicating beverages are sold for consumption on the premises to sell or otherwise furnish such beverages to an intoxicated person or to permit an intoxicated person to remain or loiter therein.

B. It is unlawful for the owner; manager; or operator of such a place to permit therein gambling, betting, operation of a lottery; sale, furnishing, or drinking of intoxicating liquor; disorderly conduct; loud or disturbing language, noise, or music; profane language; or any other violation of the laws of the state or of the ordinances of the city, or for any person to engage in any such activity or conduct in such a place.

C. It is unlawful for the owner, manager, or opera tor of such a place to permit therein fighting, boxing, wrestling, or other contests of physical strength; or for any person to fight, box, wrestle, or engage in other contests of physical strength in such a place.

§ 3-212 **DRINKING IN PUBLIC.**

It is unlawful for any person, whether a minor or of age, to drink any nonintoxicating beverage while such person is upon any public street, alley, or other public highway, or in any public building or other public place within the city. This section shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises.

§ 3-213 **HOURS OF SALE.**

It is unlawful for any person, firm, or corporation to sell nonintoxicating beverages for consumption on the premises to sell the same between the hours of 2:00 A.M. Sunday morning and 7:00 A.M. on the following Monday; and on other days of the week between the hours of 2:00 A.M. and 7:00 A.M. of the following day.

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

§ 3-214 TRANSPORTING OPEN CONTAINER.

A. It is unlawful for any person to knowingly transport in any moving vehicle upon a public highway, street or alley any nonintoxicating beverage except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed unless the opened container be in the rear trunk or rear compartment. The rear trunk or compartment 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.

B. For the purpose of this section "nonintoxicating beverage" shall be as defined in §§ 3-101 and 3-201 et seq. of this code.

§ 3-215 PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in § 1-108 of this code.

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