

PART 3
ALCOHOLIC BEVERAGES AND TAX

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SECTION 3-101 DEFINITIONS AND INTERPRETATIONS.

Words, 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, Sections 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 constructions.

SECTION 3-102 OCCUPATION TAX LEVIED.

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

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.	Mixed beverage sales	(initial) \$1,000.00; (renewal) \$900.00;

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| 10. | Caterer | (initial) | \$1,000.00; | |
| | | (renewal) | \$900.00; | and |
| 11. | Special Events, per day | | \$50.00. | |

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%).

SECTION 3-103 PAYMENT REQUIRED; PENALTY.

A. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of the town clerk-treasurer 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 July.

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 town clerk-treasurer 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 therefor in advance of such operation, is guilty of an offense against the town and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

SECTION 3-104 ANNUAL REPORT.

The town clerk-treasurer 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.

SECTION 3-105 APPLICATION FOR CERTIFICATE; INVESTIGATIONS.

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 clerk-treasurer 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 board at the time of filing.

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

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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 town clerk-treasurer shall act in all such applications within twenty (20) days of receipt thereof.

SECTION 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 town clerk-treasurer.

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 town 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.

SECTION 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 town'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. Section 534.

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;

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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.

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.

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 town except at a retail alcoholic beverage store in strict conformity with this chapter and the laws of the state.

SECTION 3-111 PROHIBITED SALES.

A. No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the town limits of the town 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 town to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

SECTION 3-112 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.

SECTION 3-113 PROHIBITED EMPLOYMENT.

No minor shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within the town. No person shall employ or assist or aid in causing the employment of any minor at any place within the town 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.

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SECTION 3-114 DRINKING AND INTOXICATION IN PUBLIC PLACE PROHIBITED.

No persons shall drink intoxicating liquor in any public place, nor shall any person be intoxicated in a public place within this town.

SECTION 3-115 NOT TO PERMIT INTOXICATED PERSON IN CAFE, CLUB.

No person operating a cafe, restaurant, club, or any place of recreation within this town, 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.

SECTION 3-116 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the town, and, upon conviction of such an offense the violator shall be punished as provided in Section 1-108 of this code.

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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.

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. and 7:00 A.M. on any day.

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 town selling such beverages for consumption on or off the premises of the dealer's

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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.

State Law Reference: State license fee, town 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 town any nonintoxicating beverages to the public for consumption or use without first having obtained a license therefor from the town clerk-treasurer. Every person desiring to engage in business as a retail dealer in nonintoxicating beverages or to continue in the business within the town shall make application to the town clerk-treasurer 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 town such license shall be issued forthwith. All licenses shall expire on June 30 of each year. Licenses issued hereunder shall not be assignable or transferable, and the fee shall not be pro-rated for part of the year. The town 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.

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.

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.

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.

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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. 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.

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 town 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.

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

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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. Section 163.24.

SECTION 3-211 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the town, and, upon conviction of such an offense the violator shall be punished as provided in Section 1-108 of this code.