

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 Town 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.

State Law Reference: State alcoholic beverage regulations, generally, *37 Okla. Stat. 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 determined by the Oklahoma Alcoholic Beverage Control Act *Sections 501 - 566 of Title 37 of the Oklahoma Statutes*). "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.

SECTION 3-103 OCCUPATION TAX LEVIED

A. An annual occupation tax is hereby levied on persons engaging in the following businesses or occupations within the Town in the amounts respectively indicated:

Brewer	\$ 1,250.00
Distiller	3,125.00
Winemaker	625.00
Oklahoma Winemaker	75.00
Rectifier	3,125.00
Wholesaler	3,500.00
Class B Wholesaler	625.00
Retail Package Store	112.50
Mixed Beverage Sales (Initial)	150.00
Mixed Beverage Sales (Renewal)	150.00
Caterer (Initial)	150.00
Caterer (Renewal)	150.00
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%).

State Law Reference: Town license fees, not to levy greater than State licenses, *37 Okla. Stat. 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 Town Clerk 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 Article shall be prorated on a monthly basis for the year in which an occupation begins operations.

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C. Upon payment of the occupation tax, the Town Clerk shall issue a receipt to the State Licensee, which the Licensee shall post in a conspicuous place on the premises where he carries on his occupation.

D. Any person who engages in any of the occupations taxed by this Article 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 3-105 **ANNUAL REPORT**

The Town 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.

SECTION 3-106 **CIVIL PENALTY**

All sums due from any person, firm or corporation by reason of occupation taxes imposed by this Chapter shall be recoverable at the suit of the Town brought against such person in any Court of competent jurisdiction. In such suit, in addition to the tax, the Town shall be allowed to recover interest at the maximum allowable rate permitted by State law upon all sums due by way of tax, from the date of accrual thereof, any penalty, and all costs of collection, judicial or otherwise, including reasonable attorney's fees. Prosecution for an offense against the Town arising out of the failure to pay a tax levied by this Chapter, regardless of the outcome or its continued pendency, shall not constitute a defense or a bar in any manner to the collection of any tax and penalties, if any are due, as herein provided.

SECTION 3-107 **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 by:

1. Filing a written application on forms prescribed by that Office; and
2. Paying a verification and certification fee in the amount of Fifty Dollars (\$50.00) at the time of filing.

B. Upon receipt of an Application for a Certificate of Compliance the Town Clerk 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 Town Clerk shall act in all such applications within twenty (20) days of receipt thereof.

SECTION 3-108 **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.

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 3-109 **CONDITION OF SALE**

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

- In retail containers;
- At ordinary room temperatures;
- In the original package; and
- 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 3-110 **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 3-111 **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 traveled 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 Okla. Stat. Section 534.*

SECTION 3-112 **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 3-113 **TRANSPORTING BEVERAGES**

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

- In an unopened original container with seal unbroken, and the original cap or cork not removed from the container; or
- 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 3-114 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.

SECTION 3-115 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 Town 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 Town, 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 Town 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 Town.

SECTION 3-116 DRINKING AND INTOXICATION IN PUBLIC PLACE PROHIBITED

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

SECTION 3-117 NOT TO PERMIT INTOXICATED PERSON IN CAFÉ, CLUB

No person operating a café, restaurant, club, or any place of recreation within this Town, and no employee engaged in connection with the operation of such a café, restaurant, club or place of recreation shall permit any person to be drunk or intoxicated in the place of business.

SECTION 3-118 PENALTY

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

CHAPTER 2

LOW-POINT BEER

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**SECTION 3-201 INTOXICATING BEVERAGES AND LOW-POINT BEER
DISTINGUISHED**

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 are hereby declared to be low-point beer. Wherever the term “nonintoxicating beverage” or “nonintoxicating malt beverage” appears in this Chapter, such term shall be construed to mean low-point beer. The manufacture, distribution and sale of low-point beer, including but not limited to, beer or cereal malt beverages, are hereby declared subject to the provisions of Okla. Stat. Ann. tit 37, §163.1 et seq.

SECTION 3-202 DEFINITIONS

A. For the purpose of this Chapter, the following terms shall have the meanings respectively ascribed to them in this Section:

1. “Low-point beer” means and includes 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, including, but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of infusion of barley or other grain, malt or similar products.
2. "Minor" means a person who has not yet attained the age at which a person is permitted to consume low-point beer under State Law;

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3. "Place of business" means each separate location or service unit in which or from which low-point beer is sold, delivered, or otherwise furnished; and

4. "Retail dealer" means any person, firm, corporation, association, or concessionaire who sells, distributes, or dispenses at retail, any low-point beer within the corporate limits of the Town, without regard as to any place where such beverages may be consumed or used.

SECTION 3-203 **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 low-point beer for consumption on the premises to barter, sell, dispense or otherwise furnish low-point beer 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. to 7:00 A.M. on any day. (Ord. No. 85-3, 6/26/85)

SECTION 3-204 **LICENSE FEES**

There is hereby levied on each retail dealer in low-point beer within the Town 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.

SECTION 3-205 **LICENSE REQUIRED**

It is unlawful and an offense for any person to sell, distribute or dispense within the Town any low-point beer to the public for consumption or use without first having obtained a license therefore from the Town Clerk. Every person desiring to engage in business as a retail dealer in low-point beer or to continue in the business within the Town shall make application to the Town 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.

SECTION 3-206 **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 low-point beer, or for any minor to purchase, receive, or procure any low-point beer.

SECTION 3-207 **POSSESSION BY MINORS**

A. Possession" under the terms of this Chapter shall consist of actual physical possession and shall further include any low-point 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 low-point beer while such person is upon any public street, avenue, alley, road, highway or public building or place.

SECTION 3-208 **PERSONS UNDER 18 NOT TO BE EMPLOYED**

A. It is unlawful for any owner, manager, operator or employee of a place where low-point beer is 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 low-point beer 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 low point-beer. This Subsection shall not apply to any area which has as its main purpose some objective other than the sale of serving of low-point beer is incidental to the main purpose.

SECTION 3-209 **NOT TO PERMIT MINORS TO FREQUENT BARS; EXCEPTIONS**

A. The owner of any bar, beer hall, tavern or other place wherein any low-point beer 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 low-point beer 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 low-point beer, in which sales or serving of low-point beer is incidental to the main purpose, if the minors are not sold or served or do not consume low-point beer.

SECTION 3-210 **MISREPRESENTING AGE**

It is unlawful for any person to misrepresent his age to any retail dealer, as herein defined, for the purpose of obtaining, or attempting to obtain any low-point beer, as herein defined, for consumption upon the premises of such retail dealers.

SECTION 3-211 **NOT TO FURNISH OR SELL TO INTOXICATED PERSONS**

It is unlawful for any person, firm or corporation to sell or otherwise furnish to any intoxicated person, or person under the influence of alcoholic beverages or low-point beer within the corporate limits of the Town.

SECTION 3-212 **INTOXICATING LIQUORS NOT ALLOWED ON PREMISES**

It is unlawful for any person, firm or corporation engaged in the retail sale of any low-point beer to allow any person or persons to drink on the premises where such beverages are sold or offered for sale, any wine, whiskey, brandy or other alcoholic beverages.

SECTION 3-213 **UNLAWFUL TRANSPORTATION OF LOW-POINT BEER**

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 low-point beer 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 3-214 **PROHIBITED LOCATION**

It is unlawful for any place licensed to sell low-point beer 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 low-point beer 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 low-point beer 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, properly 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 low-point beer for on-premise consumption or premises which may presently or in the future be licensed to sell low-point beer for on-premise consumption

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even though a school or church is subsequently established within three hundred (300) feet of such licensed premises.

SECTION 3-215 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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CHAPTER 3

**CONDITIONS FOR SALE OF MIXED BEVERAGES, WINE OR BEER
AT AN EATING ESTABLISHMENT**

Section 3-301	Conditions of Sale of Mixed Beverages, Wine or Beer at an Eating Establishment
Section 3-302	Penalty

SECTION 3-301 CONDITIONS FOR SALE OF MIXED BEVERAGES, WINE OR BEER AT AN EATING ESTABLISHMENT

Any holder of a license from the Alcoholic Beverage Law Enforcement Commission for the sale of mixed beverages, wine and beer may only operate at an eating establishment under the following conditions:

1. The holder must be the operator of a restaurant;
2. That at least Eighty Percent (80%) of the gross revenue of that establishment is derived from the sale of food to be consumed on the premises; and
3. That the hours of sale of any mixed beverage, beer or wine shall be from 11:00 A.M. until 10:00 P.M.

SECTION 3-302 PENALTY

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

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