

PART 3
ALCOHOLIC BEVERAGES

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SECTION 3-101 **DEFINITIONS**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Generally. All words, terms and phrases used in this Chapter and not defined to the contrary herein shall be interpreted and construed in accordance with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Act, codified as Title 37, Oklahoma Statutes or regulations promulgated by the ABLE Commission with the same force and effect as if set forth in full herein and such definitions are hereby made a part hereof by reference.

ABLE Commission means the Alcoholic Beverage Laws Enforcement Commission.

Alcohol means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder.

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.

Beer means any beverage of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley or other grain, malt or similar products. Beer may or may not contain hops or other vegetable products. The term "beer" includes, among other things, beer, ale, stout, lager beer, porter, and other malt or other brewed liquors, but does not include sake, known as Japanese rice wine.

Beer keg means any manufacturer-sealed, single container that contains not less than four (4) gallons of beer.

Brewer means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer upon which a license fee and a tax are imposed by any law of this State.

Brew pub means a licensed establishment operated on the premises of or on premises located contiguous to a small brewer that prepares and serves food and beverages including alcoholic beverages for on premises consumption.

Caterer means any person authorized to sell mixed beverages for on-premises consumption incidental to the sale or distribution of food and who is required to have a caterer's license from the State alcoholic beverage laws enforcement commission.

Cider means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice including but not limited to flavored sparkling or carbonated cider. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors.

Convenience store means any person primarily engaged in retailing a limited range of general household items and groceries with extended hours of operation whether or not engaged in retail sales of automotive fuels in combination with such sales.

Convicted and **conviction** means and includes a finding of guilt resulting from a plea of guilty or nolo contendere the decision of a court or magistrate or the verdict of a jury irrespective of the pronouncement of judgment or the suspension thereof.

Distiller means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort, or wash, has also in his possession or use a still.

Grocery store means a person primarily engaged in retailing a general line of food such as canned or frozen foods fresh fruits and vegetables and fresh and prepared meats fish and poultry.

Hotel or **motel** means an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest for purposes of this Section the existence of other legal relationships as between some occupants and the owner or operator thereof shall be

immaterial.

Manufacturer means brewer, distiller, winemaker, rectifier, or bottler of any alcoholic beverage and its subsidiaries affiliates and parent companies.

Meals means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided that the service of only food such as appetizers, sandwiches, salads, or desserts shall not be considered "meals".

Mini-bar means a closed container either refrigerated in whole or in part or non-refrigerated and access to the interior of which is:

- A. Restricted by means of a locking device which requires the use of a key magnetic card or similar device; or
- B. Controlled at all times by the licensee.

Mixed beverage cooler means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include, but not be limited to, the beverage popularly known as a "wine cooler".

Mixed beverages means one (1) or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, caterer, beer and wine, public event charitable event or special event license.

Officer means any officer, director, stockholder, owner, manager, or any person who has a financial interest in a State licensee or who directs any policy of a State licensee.

Owner means any officer, owner, manager or other person who shall receive any percentage of profits directly from the operation of a tavern or directs any policy of a tavern.

Occupation as used in connection with "Occupation Tax" means the sites occupied as the places of business of the manufacturers, wholesalers, beer distributors, retailers, mixed beverage licensees, on- premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees.

Original package means any container of alcoholic beverage filled and stamped or sealed by the manufacturer.

Package store means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premise consumption and that is not a grocery store, convenience store or drug store, or other retail outlet, that is not permitted to sell wine or beer for off-premise consumption.

Patron means any person customer or visitor who is not employed by a licensee or who is not a licensee.

Person means an individual any type of partnership, corporation, association, Limited Liability Company or any individual involved in the legal structure of any such business entity.

Premises means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

- A. Allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public; or
- B. Allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act or this Ordinance occurring on the licensed premises.

Private event means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event.

Public event means any event that can be attended by the general public.

Rectifier means any person who rectifies, purifies, or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash, or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying, or refining spirits, shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine, or other liquor with any material, manufactures any spurious, imitation, or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials, or any other name.

Regulation or **rule** means a formal rule of general application promulgated by the ABLE Commission as herein required.

Restaurant means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises.

Retail container for spirits and wines means the original package for spirits and wines of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms.

Retailer means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises.

Sale means any transfer, exchange or barter in any manner, or by any means whatsoever, and includes all sales made by any person, whether as principal, proprietor, agent, servant or employee.

Short order food means food other than full meals including but not limited to sandwiches soups and salads. Provided that popcorn, chips and other similar snack food shall not be considered "short order food".

Small brewer means a brewer who manufactures less than twenty-five thousand (25,000) barrels of beer annually pursuant to a validly issued Small Brewer License hereunder.

Small farm wine means a wine that is produced by a small farm winery with seventy-five percent (75%) or more Oklahoma-grown grapes, berries, other fruits, honey or vegetables.

Small farm winery means a wine-making establishment that does not annually produce for sale more than fifteen thousand (15,000) gallons of wine as reported on the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17).

Sparkling wine means champagne or any artificially carbonated wine.

Special event means an entertainment, recreation or marketing event that occurs at a single location on an irregular basis and at which alcoholic beverages are sold.

Spirits means any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution, and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto.

State licensee means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises.

Wine and spirits wholesaler or **wine and spirits distributor** means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the State. The term "wholesaler", as used in this act, shall be construed to refer to a wine and spirits wholesaler; and

Wine means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine.

**SECTION 3-102 UNLAWFUL MANUFACTURE, SALE, POSSESSION, ETC.,
GENERALLY**

- A. It shall be unlawful for any person to manufacture, rectify, barter, sell, give away, or otherwise furnish another any alcoholic beverage except as permitted by law.
- B. It shall be unlawful for any person to store, or have in his possession or under his control, any alcoholic beverage except as permitted by law.
- C. It shall be unlawful for any person to transport or in any manner convey from place to place any alcoholic beverage except as permitted by law.
- D. It shall be unlawful for any person to keep or maintain, aid or abet in keeping or maintaining a place where alcoholic beverages are manufactured, sold, bartered, or given away or otherwise furnished in violation of the Ordinances of the City or the Statutes of the State.
- E. Nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor, his family or guests, so long as the State excise tax has been paid thereon, except for beer; nor prevent the making of cider or of wine not to exceed two hundred (200) gallons in any one (1) year pursuant to a license first obtained from the Alcoholic Beverage Law Enforcement Commission, if made solely for the use of the maker, his family or guests.

SECTION 3-103 MAINTAINING A PLACE WHERE SOLD CONTRARY TO LAW

It is unlawful for any person or any agent or employee thereof, to keep, maintain, or aid or abet in keeping or maintaining, a place where alcoholic beverages are manufactured, sold, bartered, given away, or otherwise furnished in violation of law or the Ordinances of the City.

**SECTION 3-104 LOCATION OF PACKAGE STORES, WHOLESALERS, AND
MIXED BEVERAGE ESTABLISHMENT**

- A. No package store, beer, wine or mixed beverage establishment, wholesale alcoholic beverage store, warehouse, or brewery, distillery, winery, brewpub or any other place however described, used or maintained for the manufacture, production bottling or sale of alcoholic beverages of any kind shall be located, maintained or operated by any person at any place within the City except at a location at which such an establishment is permitted by the land development code of this City.
- B. No person shall own, operate, maintain or be interested in any retail package store, or beer and wine, or mixed beverage establishment, which is located at a place within the City, which is forbidden as a location for such store by State law.

SECTION 3-105 HOURS OF OPERATION

- A. No package store, or the premises upon which it is located, shall be open for the purpose of selling any alcoholic beverages at any hour other than between the hours of 10:00 A.M. and 12:00 A.M. (midnight), Monday through Saturday. No sales shall be made nor shall

package store premises remain open for the purpose of making sales or receiving deliveries of alcoholic beverages on Thanksgiving Day or Christmas Day.

- B. No holder of a Retail Wine License or a Retail Beer License shall sell any beer or wine at any hour other than between the hours of 7:00 A.M. and 2:00 A.M. the following day, Monday through Sunday.
- C. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, charitable event, special event on-premises beer and wine, small brewer or brewpub licensee between the hours of 2:00 A.M. and 10:00 A.M.

SECTION 3-106 **UNDERAGE PERSONS NOT PERMITTED IN PACKAGE STORES OR LICENSED PREMISES**

- A. No licensee, operator or employee shall permit any person under twenty-one (21) years of age to enter into, remain within or loiter upon or about the premises of any package store or place where alcoholic beverages may be sold, dispensed, or served for consumption on the premises except as authorized by State law.
- B. No person under twenty-one (21) years of age shall enter, remain within or loiter upon or about the premises of any package store or place where alcoholic beverages may be sold, dispensed, or served for consumption on the premises, except as authorized by State law.

SECTION 3-107 **MINORS NOT TO BE EMPLOYED IN SELLING OR HANDLING; EXCEPTIONS**

No State licensee shall employ any person under twenty-one (21) years of age in the selling or handling of alcoholic beverages except as authorized by Title 37 or 37A, Oklahoma Statutes.

SECTION 3-108 **POSSESSION BY UNDERAGE PERSONS**

No person under twenty-one (21) years of age shall be in possession of any alcoholic beverage.

SECTION 3-109 **UNDERAGE PERSONS NOT TO MISREPRESENT AGE IN ORDER TO BUY ALCOHOL OR GAIN ENTRY TO LICENSED ESTABLISHMENTS**

No person under twenty-one (21) years of age shall misrepresent his age in writing, or by presenting false documentation of age for the purpose of inducing any person to sell or serve him alcoholic beverages, or to enter or attempt to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission.

SECTION 3-110 **CONTAINERS NOT TO BE OPENED OR BEVERAGES CONSUMED IN PACKAGE STORE**

- A. No State package store licensee shall suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on his licensed premises.

- B. No person shall drink nor consume in any manner alcoholic beverages on the premises of a retail package store; nor shall any person open or break the seal of an original package or retail container containing alcoholic beverages on such premises.

SECTION 3-111 LOITERING WHERE ALCOHOLIC BEVERAGES ARE SOLD, ETC.

It is unlawful for any person to loiter in any place where alcoholic beverages are bartered, sold, given away, or otherwise furnished.

SECTION 3-112 PUBLIC INTOXICATION

It shall be unlawful for any person to be intoxicated in any public street, alley or other public place.

SECTION 3-113 DRINKING ALCOHOLIC BEVERAGES IN PUBLIC

It shall be unlawful for any person to drink alcoholic beverages while in or upon any street, alley or other public place in the City, except that such beverages may be consumed or possessed by persons twenty-one (21) years of age or older within the boundaries of any area licensed by the ABLE Commission or on the Oklahoma State University campus in accordance with rules established by said institution.

SECTION 3-114 TRANSPORTATION

- A. It shall be unlawful for any person to knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage, except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the open container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a SUV or station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in said vehicle while it is in motion.
- B. It shall be unlawful for any person to knowingly transport or for any passenger to possess in any moving vehicle upon a public highway, street or alley any low-point beer or intoxicating 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 open container is in the rear trunk or rear compartment, which shall include the spare tire compartment in a SUV, station wagon or panel truck, or any outside compartment which is not accessible to the driver or any person in the vehicle while it is in motion.

SECTION 3-115 PERMITTING OR ALLOWING GATHERINGS WHERE MINORS ARE CONSUMING ALCOHOLIC BEVERAGES AND ANY CONTROLLED DANGEROUS SUBSTANCES

- A. No person shall knowingly and willfully permit any individual under twenty-one (21) years of age, who is an invitee to the person's residence any building, structure, or room owned, occupied, leased or otherwise procured by the person, or on any land owned, occupied, leased or otherwise procured by the person to possess or consume any alcoholic beverage,

or any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act or any combination thereof in such place.

- B. A violation of this Section shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) and costs, and/or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment.
- C. It shall constitute an affirmative defense to a violation of this Section if the conduct of the Defendant would not constitute a violation of State law.

SECTION 3-116 VIOLATIONS

Except as otherwise provided, a violation of any of the provisions of this Chapter by any person, including, but not limited to a person who has supervisory control over the premises of any public place shall be a Class A offense.

**CHAPTER 2
OCCUPATION TAX ON RETAILERS AND WHOLESALERS**

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SECTION 3-201 LEVIED; AMOUNT

A. There is hereby levied and assessed an annual Occupation Tax on every business or occupation relating to alcoholic beverages as specifically enumerated below and in the following amounts:

1.	Brewer	\$1,250.00
2.	Storage	\$23.00
3.	Distiller	\$3,125.00
4.	Winemaker	\$625.00
5.	Oklahoma Winemaker	\$75.00
6.	Rectifier	\$3,125.00
7.	On Premises Beer and Wine-Initial	\$500.00
	Renewal	\$450.00
8.	Mixed Beverage-Initial	\$900.00
	Renewal	\$900.00
9.	Caterer-Initial	\$900.00
	Renewal	\$900.00
10.	Caterer/Mixed Beverage Combination	\$900.00
11.	Wine and Spirits Wholesaler	\$3,500.00
12.	Beer Distributor	\$300.00
13.	Retail Package Store	\$300.00
14.	Bottle Club	\$1,000.00
15.	Annual Special Event	\$50.00
16.	Quarterly Special Event	\$50.00
17.	On Premises Beer and Wine/Initial	\$500.00
	Renewal	\$450.00
18.	Retail Wine	\$500.00
19.	Retail Beer	\$500.00
20.	Annual Public Event	\$50.00
21.	One (1) Time Public Event \$50.00
22.	Small Brewer Self-Distribution \$625.00

23.	Brewpub License		\$1,005.00
24.	Brewpub Self-Distribution	\$750.00

- B. If a license is required by the State for any of the above occupations, and if the State fails or refuses to issue or renew such license, the annual tax paid to the City under this Section may be refunded if written proof satisfactory to the City Clerk or his designee is supplied, showing that the State license has been denied.

SECTION 3-202 PAYMENT REQUIRED

- A. No brewer, State brewer, distiller, winemaker, State winemaker, rectifier, retail package store, retail beer and retail wine licensee, beer and wine or mixed beverage establishment, caterer or annual, quarterly, one (1) time, or special or public event licensee, hotel or brewpub shall do business within the corporate limits of the City, until the Occupation Tax levied by this Article shall have been paid in full to the City Clerk and receipt issued.
- B. Any person who engages in any of the occupations taxed by this Chapter without paying said Occupation Tax imposed therefor in advance of such operation shall, upon conviction, be deemed guilty of a Class A offense. Each day of such violation shall constitute a separate and distinct offense.

SECTION 3-203 PAYMENT GENERALLY

Any State licensee originally entering upon any occupation taxed by the provisions of this Article shall pay the required tax at the office of the City Clerk on or before the date upon which he enters into such occupation. Thereafter, such licensee shall pay the tax annually on or before July 1 each year.

SECTION 3-204 WHEN DUE AND PAYABLE; PRORATING

All occupational taxes levied under the provisions of this Article shall expire on June 30 of each year. The amount of any Occupation Tax levied shall be computed pro rata on the months remaining in the year ending June 30. Such taxes paid on or before the 15th day of any month shall be on the basis of the first day of the month, and such taxes paid after the 15th day of any month shall be on the basis of the first day of the next succeeding month.

SECTION 3-205 USE OF FUNDS

The proceeds of the tax levied by the provisions of this Article shall be deposited in and become a part of the City's general fund.

SECTION 3-206 OCCUPATION TAX NONTRANSFERABLE OR NONREFUNDABLE

The occupation taxes levied by the provisions of this Article shall cover only the person paying the tax and no other successor thereof, and shall not be refundable nor transferable under any circumstances.

SECTION 3-207 FUNCTION OF CITY CLERK

The City Clerk shall make and transmit to the State alcoholic beverage control Council an annual report showing the number and class of State licensee's upon which occupation taxes were levied pursuant to the provisions of this Article and the amount of money collected from such taxes.

SECTION 3-208 APPLICATION FOR A CERTIFICATE OF ZONING COMPLIANCE AND CERTIFICATE OF COMPLIANCE WITH FIRE, SAFETY AND HEALTH CODES

- A. Every applicant for an original or renewal license as required under the Oklahoma Alcoholic Beverage Control Act, 37 O.S. § 501 et seq. as set forth in Titles 37 and 37A, Oklahoma Statutes, or rules promulgated by the ABLE Commission, except applicants for an employee, special event or airline/beverage, railroad beverage license shall first obtain a certificate of zoning compliance and a certificate of fire safety and health code compliance from the City Clerk. The applicant for such certificates shall do the following:
 - 1. Complete and file an application on a form as prescribed by the City Clerk.
 - 2. Deposit in advance to the Office of the City Clerk the Occupational Tax levied by this Chapter and the prescribed certificate fee.
- B. Said application shall include an affidavit listing all officers, location and dates of residence for the immediately preceding three (3) years.
- C. Any persons submitting false information in an application for a certificate shall be grounds for denial of the certification.

SECTION 3-209 INVESTIGATION OF APPLICANT

Upon each application for a certificate of zoning and/or a certificate of fire, safety and health Code compliance:

- A. The City Manager shall conduct an investigation to determine if the applicant's place of business complies with all zoning Ordinances.
- B. The City Manager shall conduct an inspection of the applicant's building and premises to determine if it complies with all applicable safety and health Ordinances.
- C. The Fire Chief shall conduct an inspection of the applicant's building and premises to determine if it complies with all applicable fire safety Ordinances.
- D. The City Attorney shall review the application and other documents and determine if such documents reflect that the requirements of this Chapter have been met. He shall have the authority to request such documents as he deems necessary to determine compliance.

- E. The Chief of Police shall search for any criminal record of the applicant or its officers.

SECTION 3-210 ISSUANCE OF CERTIFICATES; TEMPORARY CERTIFICATES

Upon the payment of all necessary fees and taxes, successful completion of the investigation set forth in Section 3-209, the City Clerk shall issue to the applicant a certificate of Zoning Fire Safety and Health Code compliance. Said certificate shall be signed by the City Clerk or the Deputy City Clerk and sealed with the seal of the City.