

## CHAPTER 2: ALCOHOLIC BEVERAGES

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## ALCOHOLIC BEVERAGES

## ALCOHOLIC BEVERAGES AND TAX

1. Brewer License	\$1,250.00
2. Oklahoma Brewer License	\$125.00
3. Distiller License	
a. For each fiscal year ending after June 30, 2010	\$3,125.00
b. For the fiscal years ending June 30, 2010	\$1,250.00
4. Winemaker License	\$625.00
5. Oklahoma Winemaker License	\$75.00
6. Rectifier License	
a. For each fiscal year ending after June 30, 2010	\$3,125.00
b. For the fiscal years ending June 30, 2010	\$1,250.00
7. Wholesaler License	\$3,500.00
8. Class B Wholesaler License	\$625.00
9. Package Store License for cities and towns	\$300.00
10. Mixed Beverage License (initial license)	\$1,005.00
(renewal)	\$905.00

11. Mixed Beverage/Caterer Combination License	\$1,250.00
12. Beer and Wine License	\$500.00 (initial)
	\$450.00 (renewal)

All other fees shall be the maximum amounts as provided by state law.

**Section 2-3      Payment Required; Penalty .**

A. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefore 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 chapter shall be prorated on a monthly basis for the year in which an occupation begins operations. Taxes paid on or before the 15<sup>th</sup> day of any month shall be on the basis of the first day of the month; taxes paid after the 15<sup>th</sup> day of the month shall be on the basis of the first day of the next succeeding month.

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 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 Town and upon conviction thereof shall be punished as provided in this code.

**Section 2-4      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 2-5      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 such amount as set by the council 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 2-6      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 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. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the certificates required by Sections 2-5 and 2-6 after completion of the construction, modification, or alteration.

E.      The Town shall issue the certificates required by Sections 2-5 and 2-6 within ten (10) days after all final inspections are completed. Thereafter if a licensee fails to maintain compliance with municipal or county zoning ordinances and codes, the Town Clerk shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance.

**Section 2-7      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.      Location of mixed beverage establishment, beer and wine establishment, or bottle club.

1. It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed by the Alcoholic Beverage Laws Enforcement Commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this Section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, or retail package store which has been licensed to sell alcoholic beverages. The provisions of this Section shall not apply to mixed beverage establishments, beer and wine establishments, or bottle clubs, which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed. If any school or church shall be established within three hundred (300) feet of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this Section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this Section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this Section which has a license to sell alcoholic

beverages for on-premises consumption or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this Section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

2. Any interested party may protest the application for or granting of a license for a retail package store, or for a mixed beverage establishment, beer and wine establishment, or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, based on an alleged violation of this Section. To be considered by the ABLE Commission, the protest must:

- a. be submitted in writing,
- b. be signed by the person protesting,
- c. contain the mailing address and address of residence, if different from the mailing address of the protester,
- d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and
- e. contain a concise statement explaining why the application is being protested.

3. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

4. As used in this subsection, "interested party" means:

a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this Section,

b. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this Section, or

c. an official of a school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this Section.

State Law Reference: Similar provisions, 37 O.S. Section 37-518.3.

**Section 2-8**      **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.

**Section 2-9 Consumption Prohibited.**

No person shall drink or consume in any manner any alcoholic beverage on the premises of a retail alcoholic beverage package store; 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. Section 518.2.

**Section 2-10 Prohibited Sales, Possession By Minors .**

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. It shall be unlawful for any person under the age of twenty-one (21) years to consume or possess with intent to consume any alcoholic beverage.

C. 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 2-11 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 the vehicle.

**Section 2-12 Prohibited Employment, Minors Not To Enter .**

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 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 2-13    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 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 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 city.

**Section 2-14    Separate Premises Required .**

A.     No person shall maintain, operate, or assist, in any manner, the maintenance or operation of a retail alcoholic beverage store or package store in 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 passageway to which the public is not admitted.

B.     No person shall take any alcoholic beverage through any passageway described in this Section, for the purpose of selling or reselling such beverage, or for the purpose of delivery thereof in connection with a sale of such beverage.

**Section 2-15    Consumption And Intoxication In A Public Place .**

No person within this Town shall drink intoxicating liquor or alcoholic beverage in any public place, nor shall any person be intoxicated in a public place within this city, nor shall any owner, operator or manager of any business or public place to which the public is generally invited allow an intoxicated person to remain in or upon the premises.

**Section 2-16    Procedure For Suspension And Revocation Of License By City.**

The City, as to any mixed beverage, beer and wine, caterer, or bottle club licensee having its principal place of business in such municipality, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission, setting forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. If the complaint is filed by the City, the hearing shall be conducted within the corporate limits of said municipality. The hearing shall be held within the time limits, and in the manner, prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this Section, the Town shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint, and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. The Town shall not be required to give bond on appeal.

Section 2-17    **Prohibitions**

A.     No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under any twenty-one (21) years of age;
2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;
5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;
6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee;
7. 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 opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and 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;
8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place;
9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent of the ABLE Commission;
10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of the Commission;
11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or



12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of the Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ or hire musical bands who have musicians who are under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

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

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

- a. deliver more than two 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. Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed

original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on the day of any General, Primary, Runoff Primary or Special Election while the polls are open whether on a national, state, county or Town election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day;

4. Operate a retail package store unless such store shall be located in a Town or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided further, as used in this Section:

- a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility,
- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred (100) merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of

any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or
2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;
2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission;
3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;
4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on the licensed premises which is not allowed to be sold or served upon such premises; or
5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this Section when the band is to perform within such area.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;
2. Act as an agent for any bottle club member and purchase any alcoholic beverage for the member;
3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;
4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;
5. Sell any alcoholic beverage;

6. Deliver or furnish to any club member any alcoholic beverage that does not belong to the member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this Section when the band is to perform within such area.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission.

Reserved Sections 2-18 through 2-20

## **Article 2.      Non-Intoxicating Beverages**

### **Section 2-21    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 non-intoxicating beverages under state law;

2. "Non-intoxicating beverages mean 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; the same is hereby declared and sometimes referred to as low-point beer. Wherever the term "non-intoxicating beverage" or "non-intoxicating malt beverage" appears in the Oklahoma Statutes, such term shall be construed to mean low-point beer.

3. "Retail dealer" means and includes any person who sells any low-point beer, as defined herein, at retail for consumption or use, and such definitions include state and county fair associations, and special licenses may be issued for the sale of low-point beer, as herein defined, by such associations, and to other persons for the sale of such low-point beer at rodeos, picnics, or other organized temporary assemblages of people. The term "retail dealer" also includes railways for the sale of such beverages, and licenses may be issued for each dining car or railway train, which railways and dining cars shall pay the same license fees as regular retail dealers.

State Law Reference: See 37 O.S. Section 163.1 et seq. for regulations on non-intoxicating beverages.

**Section 2-22 License Fee Levied.**

A. There is hereby levied an annual occupation tax upon each retail dealer in non-intoxicating beverages for consumption on or off the premises and for sale of non-intoxicating beverages which are in original packages and are not for consumption on the premises, all as established in the city's fee schedule.

B. All such municipal license fee taxes shall be paid to the Town 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 annually. The amount of any license fee levied shall be computed pro rata from the months remaining in the year. Such fees paid on or before the 15<sup>th</sup> day of any month shall be on the basis of the first day of the month and such fees paid after the 15<sup>th</sup> day of the month shall be on the basis of the first day of the next succeeding month.

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

Cross Reference: See also Section 3-102 for retail package stores.

**Section 2-23 License Required .**

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

**Section 2-24 Compliance With Law; Expiration of License.**

No municipal license shall be issued to any retail dealer by the Town 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.

**Section 2-25 Revocation Of License.**

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

**Section 2-26 Prohibited Location.**

It shall be unlawful for any place which has received a permit or which has been licensed to sell non-intoxicating beverage and which has as its main purpose the selling or serving of non-intoxicating beverage for consumption on the premises to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this Section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such place which

has received a permit or which has been licensed to sell non-intoxicating beverage. The provisions of this Section shall not apply to places which have received a permit or which have been licensed to sell non-intoxicating beverage for on-premises consumption prior to the effective date of this Section. If any school or church shall be established within three hundred (300) feet of place subject to the provisions of this Section after such place has received a permit or been licensed, the provisions of this Section shall not be a deterrent to the renewal of such permit or license if there has not been a lapse of more than sixty (60) days. When any place subject to the provisions of this Section which has a permit or license to sell non-intoxicating beverage for on-premises consumption changes ownership or the operator thereof is changed, and such change results in the same type of business being conducted on the premises, the provisions of this Section shall not be a deterrent to the issuance of a license or permit to the new owner or operator if he or she is otherwise qualified.

**Section 2-27    Sale And Purchase To Or By Minors.**

It is unlawful for any person, firm or corporation to sell, offer for sale, give away, procure for, or otherwise dispense to any minor any non-intoxicating beverage; or for any minor to purchase, receive or procure any non-intoxicating beverage.

**Section 2-28    Persons Under Eighteen (18) Not To Be Employed.**

A. It shall be 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 is sold or dispensed for consumption on the premises.

B. It shall be unlawful for any person under the age of majority 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 said 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 or her own child or children is exempted 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 said beverages do not exceed twenty-five percent (25%) of the gross sales of the business or establishment.

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

**Section 2-29    Minors; Possession of Non-intoxicating Beverages Prohibited.**

It is unlawful and an offense for any minor to consume or possess with intent to consume any intoxicating beverage or low-point beer as defined by state statute.

Section 2-30     **Not To Permit Minors To Frequent Bars; Exceptions.**

A. It shall be unlawful for any person to sell, barter, or give to any person under twenty-one (21) years of age any low-point beer.

B. It shall be 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 said license holder, to permit any person under twenty-one (21) years of age to be admitted to or remain in a separate or enclosed bar area of the licensed premises unless said person's parent or legal guardian is present, which has as its main purpose the selling or serving of low-point beer for consumption on the premises. The provisions of this Section shall not prohibit persons under twenty-one (21) years of age 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 said beverages are incidental to the main purpose, as long as persons under twenty-one (21) years of age are not sold or served said beverages; however, the incidental service of food in the bar area shall not exempt a licensee, agent, servant, or employee from the provisions of this Section.

C. It shall be 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 said license holder to permit any person under twenty-one (21) years of age to consume any low-point beer on the licensed premises.

D. Any person violating the provisions of subsection A, B or C of this Section shall upon conviction be guilty of an offense.

E. No person under twenty-one (21) years of age shall consume or possess with the intent to consume low-point beer. It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt to purchase low-point beer, except under supervision of law enforcement officers. Any person violating any of the provisions of this Section shall be guilty of an offense. Provided, 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 low-point beer.

F. 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 person under twenty-one (21) years of age shall enter, attempt to enter, or remain in said area. The provisions of this subsection shall not prohibit persons under twenty-one (21) years of age 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 said beverages are incidental to the main purpose, if the persons under twenty-one (21) years of age 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 persons under twenty-one (21) years of age from the provisions of this subsection. Any person convicted of violating the provisions of this subsection shall be guilty of an offense.

State Law Reference: Similar provision, 37 O.S. Section 241, 246.

Section 2-31     **Intoxicated Persons.**

It is unlawful for the owner, manager, or operator of a place where non-intoxicating 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 be therein.

Section 2-32     **Reserved.**

Section 2-33     **Hours Of Sale.**

It is unlawful for any person, firm or corporation to sell non-intoxicating beverages for consumption on the premises, 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. Section 213.

Section 2-34     **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 intoxicating or non-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 opened container is 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 "non-intoxicating beverage" shall be as defined in Section 3-21 of this code.

Section 2-35.     **Definitions.**

For purposes of Sections 2-35, 2-36 and 2-37 the following definitions shall apply:

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

"Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one (1) percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. This term includes intoxicating beverages and low point beer as defined herein.

"Gathering" is a party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

"Intoxicating Beverage" includes beverages containing more than three and two-tenths percent (3.2%) alcohol by weight.

"Legal Guardian" means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

"Low Point Beer" means and includes beverages containing more than one-half of one percent (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 an infusion of barley or other grain, malt or similar products.

"Minor" means any person under twenty-one years of age.



"Parent" means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

"Premises" means any residence or other private property, place, or premises, including any commercial or business premises.

"Response costs" are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any Town equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to the enforcement of this Section.

**Section 2-36. Consumption of Alcohol by Minor in Public Place, Place Open to Public, or Place Not Open to Public**

Except as permitted by state law, it is unlawful for any minor to:

- (a) consume at any public place or any place open to the public alcoholic beverage; or
- (b) consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.

**Section 3-37 Hosting, Permitting, or Allowing a Party, Gathering, or Event where Minors are Consuming Alcoholic Beverages**

(a) (1) It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

(2) It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (a)(1) of this Section.

(b) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian.

- (c) Nothing in this Section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use of alcohol to immediate family members within the supervision of parents and guardians. However, if a minor leaves such a family gathering intoxicated and is found in public then said providers of alcohol will be held responsible in the same manner as a non-family gathering.
- (d) Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcohol. However, if a minor leaves such a religious gathering intoxicated and is found to be in public then said providers of alcohol will be held responsible in the same manner as a non-religious gathering.
- (e) This Section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.
- (f) Any person who shall violate the provisions of this Section shall be deemed guilty of an offense against the Town and upon conviction thereof shall be punished for violation of a Class A offense, with fine of Two Hundred Dollars (\$200.00), or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment, plus all court costs and statutory penalties, as set forth in Section 8-20 and any other provision of the Code of Ordinance of the Town of Okarche enacted to impose legally assessable costs and assessments for the violation of a provision of the Code of Ordinances of the Town of Okarche, Oklahoma.
- (g) Violations of this Section may be prosecuted by the Town of Okarche criminally, civilly, and/or administratively as provided by the Municipal Code. The Town may seek administrative fees and response costs associated with enforcement of this Section through all remedies or procedures provided by statute, ordinance, or law. This Section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Section, nor shall they limit the City's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this Section.
- (h) This Section shall not apply where prohibited or preempted by state or federal law.