

## CHAPTER 2

### ALCOHOLIC BEVERAGES

- Article 1. Oklahoma Alcoholic Beverage Control Act
- Article 2. Alcoholic or Intoxicating Beverages
- Article 3. Beer
- Article 4. Private Clubs
- Article 5. Miscellaneous Provisions
- Article 6. Penalty

#### **Article 1. Oklahoma Alcoholic Beverage Control Act**

##### **Section 2-1. Oklahoma Alcoholic Beverage Control Act Adopted.**

The Oklahoma Alcoholic Beverage Control Act (37 O.S. Section 501 et seq) is hereby adopted and incorporated by reference in the Code of Ordinances of the City of Elk City, Oklahoma. Applicable provisions of the Act are hereby declared to be in full force, as if included herein in complete detail.

##### **Section 2-2. Definitions and Interpretations.**

1. All words, phrases and terms used in this and other Chapters relating to the use of alcoholic beverages, and not defined herein, shall be interpreted and construed in conformity with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Control Act, *as amended*.

##### **Sections 2-3 through 2-4. (Reserved for future use).**

#### **Article 2. Alcoholic or Intoxicating Beverages**

##### **Section 2-5. Occupation Tax.**

1. There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and in the amount herein stated:

a.	Brewer	\$1,250.00
b.	Oklahoma Brewer	\$125.00
c.	Distiller	\$3,125.00
d.	Winemaker	\$625.00
e.	Oklahoma Winemaker	\$75.00
f.	Wholesaler	\$3,500.00
g.	Class B Wholesaler	\$625.00
h.	Rectifier	\$3,125.00
i.	Package Store Retailer	\$905.00
j.	Mixed Beverage	\$905.00
k.	On premise Beer & Wine	\$500.00
l.	Special Event/Day	\$55.00
m.	Brew Pub	\$905.00
n.	Caterer	\$905.00
o.	Mixed Beverage/Caterer Combo	\$1,250.00
p.	On Premise Beer	\$50.00
q.	Retail Wine	\$500.00
r.	Retail Beer	\$500.00

2. The occupation tax for those service organizations which are exempt under Section 501(c)(19) of the Internal Revenue Code for mixed beverage license shall be five hundred dollars (\$500.00) per year.

3. If a brewer or Class B wholesaler also holds a license from the state to manufacture or wholesale any nonintoxicating malt beverage, then the occupation tax for such brewer or Class B wholesaler shall be reduced by seventy-five percent (75%).

**Section 2-6. Payment Required; Penalty.**

1. Any State license originally entering upon any occupation herein listed shall pay the tax therefore at the office of the City Clerk on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of his current State license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April.

2. The occupation tax subject to this ordinance shall be prorated on a monthly basis for the year in which an occupation begins operations.

3. Upon payment of the said occupation tax, the City Clerk shall issue a receipt to said State licensee, which said licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.

4. Any person who engages in any of the occupations taxed by this chapter without paying said occupation tax imposed therefore in advance of such operation, is guilty of an offense against the City of Elk City, Oklahoma, and upon conviction thereof shall be punished by fine and costs as provided for in Section 1-40 of this Code. Each day of such violation shall constitute a separate offense.

### **Section 2-7. Annual Report.**

The City Clerk shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to the occupation tax and the amount of money collected from said tax.

### **Section 2-8. Application for Certificate; Investigations.**

1. Every applicant for a certificate of compliance with the zoning, fire, health and safety code of the City of Elk City required by Title 37 of the Oklahoma Statutes shall apply at the office of the City Clerk by:

- a. filing a written application on forms prescribed by that office, and
- b. paying a verification and certification fee in the amount of twenty-five dollars (\$25.00) at the time of filing.

2. Upon receipt of an application for a certificate of compliance the City 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.

3. The City Clerk shall act on all such applications within twenty (20) days of receipt thereof.

### **Section 2-9. Issuance of Certificate of Compliance.**

1. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning, safety, fire and health codes, a Certificate of Compliance shall be issued to the ABLE Commission.

2. 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.

3. The above certificate of compliance shall be signed by the Mayor or by the City

Manager.

**Section 2-10. Retail Package Stores.**

1. The location of a retail package store is specifically prohibited within three hundred (300) feet of a public school, or any church property primarily and regularly used for worship services and religious activities; provided that, 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 line of such church or school to the nearest public 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.

2. It shall be unlawful for any person to operate or maintain, or to assist in the operation or maintenance of, any retail package store when the premises are not separated from the premises on which any other goods, wares or merchandise are sold or services are rendered, by nontransparent walls (which may be broken by a passageway to which the public is not admitted). It shall be unlawful for any person to take any alcoholic beverage from such store through said passageway to which the public is not admitted, for the purpose of selling, reselling or delivering in connection with the sale of said alcoholic beverages.

3. It shall be unlawful for any person holding a license for retail package store, or any employee or agent thereof, to keep the premises of the retail package store open for the purpose of selling, or to sell, any alcoholic beverage at any hour other than between the hours of 10:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday; or to keep such premises open for such purposes on the day of any general, primary, runoff primary or special election; or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day or Christmas.

4. Retail package stores may sell alcoholic beverages (a) only in retail containers in the original package for consumption off the premises and (b) only at ordinary room temperature.

5. It shall be unlawful for any person holding a license for a retail package store, or any employee or agent thereof, to:

- a. Knowingly sell, deliver or furnish any alcoholic beverage to any person under twenty-one (21) years of age, an intoxicated person or any person who has been adjudged insane or mentally deficient;
- b. Employ any person under twenty-one (21) years of age in the selling or handling of alcoholic beverages;

- c. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about a licensed premises; or
- d. Permit any person to open a retail container or consume alcoholic beverages on the premises of a retail package store.

**Section 2-11 through 2-14. (Reserved for future use.)**

**Article 3. Beer**

**Section 2-15. Definitions.**

"Retail Dealer", as used in this Article, means any person, firm, corporation, association or concessionaire who sells, distributes or dispenses, at retail, any beer within the corporate limits of the City of Elk City, Oklahoma, without regard as to the place where such beverage may be consumed or used.

**Section 2-16. License.**

1. There is hereby levied upon each retail dealer of beer for consumption on or off the premises, licensed after October 1, 2018, an annual municipal occupation license fee of one hundred dollars (\$100.00).

2. It shall be unlawful for any retail dealer, whether permanent or temporary, to sell, distribute or dispense any beer without having first received a municipal occupation tax, as herein required.

3. No municipal occupation license shall be issued to any retail dealer by the City Clerk, until the applicant has obtained all required State and County permits, and has, in all other respects, complied with the Oklahoma Alcoholic Beverage Control Act. All such licenses shall expire on June 30th of the year following reissuance. License fees shall be paid to the City Clerk and no license shall be transferable.

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

**Section 2-17. Retail Dealers in Beer.**

It shall be unlawful for any person, firm or corporation operating or maintaining a place of

business where beer is sold for consumption on the premises, for any person in charge thereof, to:

1. Sell, offer for sale, give away, procure for, or otherwise dispense to, any person under twenty-one (21) years of age any beer;
2. Permit any person under twenty-one (21) years of age to loiter or remain in or around such place of business, except where such business is an eating place where the service of such beverages is incidental to the main business of serving food;
3. Employ any person under twenty-one (21) years of age to work in such a place, except where said is an eating place where the service of such beverages is incidental to the main business of serving food.
4. Sell, deliver or knowingly furnish beer to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
5. Permit therein gambling, betting or operation of a lottery except where allowed by state law;
6. Permit sale, furnishing or drinking of intoxicating liquor; or
7. Permit disorderly conduct, loud or disturbing language or any other violation of State Law or of the Code of Ordinances of the City of Elk City, Oklahoma.

### **Section 2-18. Unobstructed Windows.**

Any business selling beer for consumption on the premises, shall maintain unobstructed windows during all hours that the establishment is open for business, or at any time that beer is being consumed upon the premises.

### **Section 2-19. Hours of Sale.**

1. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption on the premises between the hours of 2:00 o'clock a.m. and 7:00 o'clock a.m. on any day, except Sunday.
2. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption on the premises between the hours of 2:00 o'clock a.m. Sunday and 12:00 o'clock noon Sunday.
3. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption off the premises between the hours of 2:00 o'clock a.m. and 6:00 a.m. of the same day.

**Sections 2-20 through 2-24.** (Reserved for future use.)

**Article 4. Private Clubs**

**Sections 2-25 through 2-39.** (Reserved for future use.)

**Article 5. Miscellaneous Provisions**

**Sections 2-40 through 2-49.** (Reserved for future use.)

**Article 6. Penalty**

**Section 2-50. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.