

Alcoholic Beverages

PART 3

ALCOHOLIC BEVERAGES

CHAPTER 1

ALCOHOLIC BEVERAGES

Section 3-101	Definitions.
Section 3-102	Occupation Tax.
Section 3-103	Payment of Tax and Securing of License Required.
Section 3-104	Town Clerk to Make Annual Report
Section 3-105	Application for Certificate of Compliance; Investigation.
Section 3-106	Issuance of Certificates.
Section 3-107	License for the Sale and Serving of Alcoholic Beverages.
Section 3-108	Retail Package Stores and other businesses- Location.
Section 3-109	Regulations Applicable to Alcoholic Beverages.
Section 3-110	Intoxicated Persons-Gambling-Disorderly Conduct.
Section 3-111	Drinking in Public.
Section 3-112	General Prohibitions.
Section 3-113	Penalty.

SECTION 3-101      DEFINITIONS.

All of the terms and phrases used in this chapter shall be given the same use and meanings as defined by the Oklahoma Alcoholic Beverage Control Act, 37A O.S. §1-101, *et seq.*, as amended from time to time, with the same force and effect as if the definitions were set forth in full in this chapter.

SECTION 3-102      OCCUPATION TAX.

A. Annual Tax Levied: There is hereby levied and assessed an annual occupation tax, whether initial or renewal, due on the first day of October every year, beginning October 1, 2018, on every vendor, business or occupation relating to alcoholic beverages as specifically enumerated herein and in the amount herein stated:

1. Brewer:	\$1,250.00
2. Oklahoma Brewer:	\$125.00
3. Distiller:	\$3,125.00
4. Winemaker:	\$625.00
5. Oklahoma Winemaker:	\$75.00
6. Rectifier:	\$3,125.00
7. Wine and Spirits Wholesaler:	\$3,500.00
8. Beer Distributor:	\$625.00
9. Retail Package Store:	\$500.00

## Alcoholic Beverages

10. Mixed Beverage:	\$900.00
11. Retail Beer:	\$450.00
12. Retail Wine:	\$450.00
13. Brewpub:	\$900.00
14. Brewpub, if licensee also holds a Mixed Beverage or Beer and/or Wine license:	\$100.00
15. On-Premises Beer or wine:	\$500.00
16. On-Premises Beer or wine, if licensee also holds a Mixed Beverage license:	\$100.00
17. Caterer:	\$900.00
18. Special Event, per day:	\$50.00
19. Bottle Club:	\$1,000.00

- B. Service Organizations: The occupation tax for those service or fraternal beneficiary organizations which are exempt under Sections 501(c)(19), (8) or (10) of the Internal Revenue Code for a mixed beverage license shall be five hundred dollars (\$500.00) per year.
- C. The occupation tax for an initial license shall be pro-rated if such license is granted for less than a full calendar year from October first of each year. The occupation tax for annual renewals shall not be pro-rated.

### SECTION 3-103 PAYMENT OF TAX AND SECURING OF LICENSE REQUIRED

- A. Time of Payment: Any state licensee originally entering upon any occupation listed in this chapter shall pay the tax therefor at the office of the Town Clerk on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of his current state license issued by the ABLE Commission and current Oklahoma Sales Tax Permit before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before October 1.
- B. Proration of Tax: The occupation tax subject to this chapter shall be prorated on a monthly basis for the year in which an occupation begins operations.
- C. Issuance of Receipt and License: Upon payment of the said occupation tax and approval of an application for a Town license, the Town Clerk shall issue a receipt and Town license to the said state licensee, which licensee shall post in a conspicuous place on the premises wherein the licensee carries on the occupation. The receipt for payment of the occupation tax issued by the Town Clerk shall be attached to the city license authorizing the licensee to conduct the occupation for which the tax was paid. The Town license shall be in such form as the Town Clerk shall determine.

SECTION 3-104      TOWN CLERK TO MAKE ANNUAL REPORT.

The Town Clerk shall make an annual report as of the close of business on June 30<sup>th</sup> each year to the Oklahoma Alcoholic Beverage Laws Enforcement Commission (“ABLE Commission”) showing the number and class of licensees subject to the occupation tax and the amount of money received therefrom, and any other information required by the ABLE Commission.

SECTION 3-105      APPLICATION FOR CERTIFICATE OF COMPLIANCE;  
INVESTIGATION.

- A. Application: Every applicant for a certificate of compliance as to the zoning, fire, health, and safety codes of the town required by Title 37A of the Oklahoma Statutes shall apply at the office of the Town Clerk by filing a written application on forms prescribed by that office.
- B. Investigation: 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 ordinances and any applicable health, fire, building and other safety codes applicable to such premises.
- C. Time Limit for Town Action: The clerk shall act on all such applications within twenty (20) days of receipt thereof.
- D. That the application fee for the issuance of a “Certificate of Compliance” shall be Twenty-five Dollars (\$25.00) per location, plus any inspection fees incurred.

SECTION 3-106      ISSUANCE OF CERTIFICATES.

- A. Certificate of Zoning: 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. Certificate of Compliance: 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. The certificate of compliance may include the zoning certification so that only one (1) document need be issued.
- C. All certificates of compliance issued by the city shall be signed by the Mayor, the Town Clerk, the Town Administrator or the Code Enforcement Officer of the town.

SECTION 3-107      LICENSE FOR THE SALE AND SERVING OF ALCOHOLIC BEVERAGES.

A. License Required:

1. License Application: It shall be unlawful for any business, vendor or person within the Town of Sperry to produce, serve, sell or offer for sale alcoholic beverages (as that term is defined in 37A O.S. §1-103, whether for consumption on or off the premises) without payment of the occupation tax as set forth in Section 3-102 of this chapter and issuance of the license by the Town Clerk (as used herein, the term “vendor” shall encompass and include any business, person or entity producing, serving or desiring to serve, selling or offering for sale alcoholic beverages, whether for consumption on or off of the premises upon which the sale is made). Every vendor desiring to engage in business as a retail vendor serving or selling alcoholic beverages, or to continue operating as a vendor serving or selling alcoholic beverages, or to produce alcoholic beverages within the Town of Sperry shall make application to the Town Clerk on forms available in the office of the Town Clerk. A license shall be issued to each vendor whose application is approved and the occupation tax paid.
  
2. Suspension or Revocation of License: The license granted by the Town of Sperry shall at all times be displayed in public view in the vendor's place of business. This license may be suspended or revoked as provided herein if the vendor, or any person or agent employed by the vendor or acting on the vendor's behalf, is convicted of the offense of selling or serving alcohol to a minor, or enters into a plea bargain agreement after being charged with such offense. “Conviction” throughout this section shall be deemed to include entry of a guilty or *nolo contendere* plea by any person charged with selling or serving an alcoholic beverage to a minor. Each vendor making application for a license under this section shall expressly acknowledge the vendor's awareness that a license granted pursuant to this section may be suspended or revoked by the Town of Sperry if an owner, officer, director, manager, employee or agent of the vendor is either convicted of selling or serving an alcoholic beverage to a minor on the vendor's behalf or enters into a plea bargain agreement after being charged with such offense. It shall not be a defense under this section for a vendor to assert or claim that an employee or agent of the vendor unlawfully sold or served an alcoholic beverage to a minor contrary to the vendor's rules, policies, procedures or training. Assertion of such a defense will not prevent the vendor's license from the penalties set forth in subsection I of this section.

## Alcoholic Beverages

3. Acknowledgment of Compliance Checks: A vendor shall specifically acknowledge awareness on the license application submitted to the Town of Sperry that alcohol compliance checks are performed on a regular and ongoing basis in the community by law enforcement, and shall further acknowledge the vendor's consent to such compliance checks as a necessary condition of obtaining and retaining a license from the Town of Sperry under this section. The vendor shall also acknowledge on the application its awareness that conviction of the vendor's employee or agent for the offense of selling or serving alcohol or beer to a minor, or the acceptance of a plea bargain agreement by the employee or agent after being charged with such offense, may result in suspension or revocation of the vendor's license as provided in subsection I of this Section.

### B. License Application:

Application for a license to sell or serve alcoholic beverages by a vendor located within the Town of Sperry shall be made by completing and submitting the application form to the Town Clerk. The form shall include the vendor's business name, the owner's name and address if the business is a sole proprietorship, the name of the president and all other officers and directors if the business is a corporation, and the names of all partners or members if the vendor is a partnership or a limited liability company. The application form shall also require the vendor to submit information verifying that the vendor has obtained the necessary permits/licenses required by state law, the ABLE Commission and the Oklahoma Tax Commission. The application form shall also require information regarding the number of each permit and the date each permit was granted to the vendor. It shall be unlawful for any person to make any false statement on the application form. Knowingly or intentionally submitting an application containing false information shall be unlawful and shall serve as grounds for denial, suspension or revocation of a vendor's license issued by the Town of Sperry.

### C. License Issuance: A license under this section shall be issued to a vendor when the applicant has completed each of the following requirements:

1. Furnishing a copy of a current state license issued by the ABLE Commission for the alcohol-related occupation that the applicant desires to engage in, a current Oklahoma State Sales Tax Permit, and any other applicable requirements under state law.
  - a. Satisfactorily submitted the application required under this section to the Town Clerk.

## Alcoholic Beverages

2. Paid the required occupation tax to the Town of Sperry.

All licenses shall be issued for one (1) calendar year from October 1<sup>st</sup> to September 30<sup>th</sup> of the following year. The fee for any license issued after the effective date of this ordinance, and for a period of less than one (1) calendar year, shall be prorated accordingly. Payment of annual license fees must be made within ten (10) days from the date the license expires. Any vendor failing to pay the annual fee within ten (10) days from the date the license expires, or prior to the date the vendor begins selling or serving alcoholic beverages if a new application, shall be subject to the penalties set forth in subsection "I" of this section.

E. Sale, Barter or Gift: It shall be unlawful for any person, vendor or business licensed under this ordinance to sell, serve, barter or give to any person under the age of twenty-one (21) any alcoholic beverage. Conviction, or acceptance of a plea bargain, by an employee or agent of the vendor for such an offense shall subject the vendor's license to sell or serve alcoholic beverages to suspension or revocation by the Town as provided below in subsection "I" of this Section.

F. Misrepresentation of Age. It shall be unlawful for any person to misrepresent their age to any vendor for the purpose of obtaining or facilitating the sale or serving of alcoholic beverages.

G. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. If a business holding a license under this section is sold, a new license must be obtained by the new owner. A separate license for each location of businesses with common ownership, including all chain stores and businesses owned and operated pursuant to franchise agreements, must be obtained by a vendor operating more than one (1) business engaged in the business of selling or serving alcoholic beverages within the Town of Sperry.

H. Hours of Operation:

1. 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 8:00 a.m. each day.
2. Beer and Wine sold at retail for consumption off-premises shall be sold only between the hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through Sunday.
3. Retail Package Store Licensees may sell alcoholic beverages between the hours of 8:00 a.m. and midnight, Monday through Saturday and shall not be permitted to be open on Thanksgiving Day or Christmas Day, unless otherwise provided by state law.

## Alcoholic Beverages

### I. Penalties.

1. Failure to Obtain or Maintain a License as Required by this Section: Any existing vendor who fails to pay the occupation tax and obtain a Town license within thirty (30) days from October 1, 2018, shall be prohibited from producing, selling or serving alcoholic beverages until such time as a license is obtained by the vendor. All new businesses intending to produce, sell or serve alcohol beverages for consumption either on or off the vendor's premises after October 1, 2018 shall be required to obtain a license under this section prior to the date the vendor begins selling or serving alcoholic beverages. A vendor who continues to produce, sell or serve alcoholic beverages without obtaining an initial or renewal license under this section shall receive an initial written warning and thereafter shall have three (3) business days to file an application with the Town Clerk to obtain a license in compliance with this section. Subsequent to the issuance of a warning under this section, a vendor/state licensee (and/or the principals thereof) who continues to produce, sell or serve alcoholic beverages after the three (3) day period without obtaining the required license shall be subject to a fine of Two Hundred Dollars (\$200.00) per day for each day that alcoholic beverages are produced, served or sold by the vendor without a Town license. The Town shall also be entitled to pursue injunctive relief and all other available legal remedies against the vendor. In addition, the Town shall notify all State agencies vested with licensing, regulatory or review power, including but not limited to the ABLE Commission and the Oklahoma Tax Commission, of the vendor's failure to pay the occupation tax due and to obtain a city license as required by the Town of Sperry Code of Ordinances.
2. ABLE Commission License Suspension or Revocation Proceedings: The Town of Sperry may also initiate license suspension or revocation proceedings with regard to the ABLE Commission license of any vendor not in compliance with the provisions of the Oklahoma Alcoholic Beverage Control Act or this chapter as authorized by 37A O.S. §4-102, as may be amended from time to time.

### SECTION 3-108      RETAIL PACKAGE STORES AND OTHER BUSINESSES- LOCATION.

- A. No retail package store, mixed-beverage establishment, beer and/or wine establishment or bottle club (if applicable) shall be operated or located at any place except at locations permitted by the Town's zoning or planning laws.
- B. The location of a retail package store, mixed beverage establishment, beer and/or wine establishment or bottle club (if applicable), is prohibited within three hundred (300) feet from any public or private school or church property primarily and regularly used for worship services and religious activities. However, in any such church or school shall be established within three hundred (300) feet of any licensed package store, mixed-beverage establishment, beer and/or wine establishment or bottle club (if applicable),

## Alcoholic Beverages

after such premises has been licensed shall not be a bar to the renewal of such license so long as it has been in continuous force and effect.

- C. The distance required 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/or wine establishment, bottle club or package store which has been licensed to sell alcoholic beverages.
- D. Retail package stores may sell alcoholic beverages only in retail containers in the original package for consumption off the premises.
- E. No person owning, operating or maintaining a retail alcoholic beverage package store shall cause or permit it to be designated by more than one (1) sign, which shall contain the words "Retail Liquor Store", or any combination of such words or any of them.

### SECTION 3-109      REGULATIONS APPLICABLE TO ALCOHOLIC BEVERAGES.

It is unlawful for any person:

- A. Knowingly to sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;
- B. Who is under the age of twenty-one (21), to misrepresent his or her age in writing or by presenting documentation of age for the purpose of inducing any person to sell him or her alcoholic beverages;
- C. To employ any person under the age of twenty-one (21) years in the selling or handling of alcoholic beverages;
- D. Who is a licensee or an agent or employee thereof to permit any person under twenty-one (21) years of age to enter into, remain within, or loiter about a licensed premises;
- E. Knowingly to sell, deliver, or furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
- F. To open a retail container or consume alcoholic beverages on the premises of a retail package store; or for any operator of a retail package store or any person in charge thereof, to permit any person to open a retail container therein or consume alcoholic beverages therein;



## Alcoholic Beverages

- G. To transport in any vehicle upon any street, alley or other public way within the town any alcoholic beverage except in its original container, which shall not have been opened and the seal of 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 trunk or any closed compartment or other container out of public view and out of reach of the driver or any occupant of the vehicle;
- H. To be intoxicated in a public place; and
- I. Who is the operator of a café, restaurant, club, or any place of recreation to permit any person to be drunk or intoxicated in such place of business.

### SECTION 3-110      INTOXICATED PERSONS-GAMBLING-DISORDERLY CONDUCT.

- A. It is unlawful for the owner, manager, or operator of a place where alcoholic 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 loiter therein.
- B. It is unlawful for the owner, manager, or operator of such a place to permit therein gambling, betting, operation of a lottery, disorderly conduct, loud or disturbing language, noise, or music; profane language or any other violations of the laws of this state or violations of the Sperry Town Code.
- C. It is unlawful for the owner, manager, or operator of such a place to permit therein fighting, boxing, wrestling, or other contests of physical strength; or for any person to fight, box, wrestle or engage in other contests of physical strength in such a place.

### SECTION 3-111      DRINKING IN PUBLIC.

- A. Unless on the premises of a special event permitted by the Town of Sperry or permitted under subsection “B” following, it is unlawful and an offense for any person to drink or consume any alcoholic beverage while such person is upon any public street, alley, public highway, or in any other public building or other public place within the Town. Any special event permittee or vendor, when such event includes the sale and/or consumption of alcoholic beverages must have a valid special event, public event or charitable alcoholic beverage (or equivalent) license issued by the ABLE Commission. All special events where the sale and/or consumption of alcoholic beverages are to be permitted shall comply with all local ordinances, state laws and the rules and regulations of the ABLE Commission with respect to special event, public event and charitable alcoholic beverage licensure. In

## Alcoholic Beverages

addition, the special event occupation tax must be paid to the Town of Sperry and Town license obtained by the special event permittee or vendor prior to the special event. Glass bottles and other glass containers are prohibited on the premises of a special event, except glass bottles in a designated bar or serving area from which alcoholic beverages are poured into non-glass containers for delivery to the consumer, and such glass bottles or containers shall not be accessible to the public. All alcoholic beverages must be sold and consumed within the designated permitted special event area and cannot be taken outside of the designated special event premises.

- B. The serving of alcoholic beverages by a licensee in an open-air seating area located on a sidewalk directly adjacent to a business lawfully serving food and/or beverages outside of the establishment through seating that is restricted to patrons of the establishment exclusively shall be permitted so long as the following requirements are complied with:
1. An open-air seating area can be surrounded by a fence or other perimeter to define and separate it from the remaining sidewalk as required or permitted by ordinance, state law and ABLE Commission regulations.
  2. A business that serves alcoholic beverages by the individual drink in an open-air seating area must be in compliance with all ABLE Commission requirements and the ordinances of the Town of Sperry, including the issuance of any applicable permits.
  3. An open-air seating area in which food and/or beverages, including alcoholic beverages, are consumed cannot inhibit the free passage of pedestrians along the sidewalk. The use of the sidewalk and right-of-way for open-air seating cannot violate the Americans with Disabilities Act.

### SECTION 3-112      GENERAL PROHIBITIONS.

- A. No person shall:
1. Purchase any alcoholic beverage at retail or wholesale from any person other than a retailer or dealer licensed by the ABLE Commission;
  2. Except as otherwise permitted in this chapter, drink any alcoholic beverage in public except on the premises of a licensee who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place;

## Alcoholic Beverages

3. Open a container of an alcoholic beverage or consume alcoholic beverages on the premises of a retail package store;
  4. Possess more than one quart of any alcoholic beverage unless the state tax has been paid thereon, except as may be otherwise provided by law.
- B. No licensee shall:
1. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;
  2. Advertise or offer “happy hours” or any other means or inducements to stimulate the consumption of alcoholic beverages, including:
    - b. Deliver more than two (2) alcoholic beverages or drinks to one person at one time;
    - c. Sell or offer to sell to any person or group of persons any alcoholic beverages or 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;
    - d. Sell or offer to sell to any person an unlimited number of alcoholic beverages or drinks during any set period of time for a fixed price, except at private functions not open to the public;
    - e. Sell or offer to sell alcoholic beverages or 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;
    - f. Increase the volume of alcohol contained in a drink without increasing proportionally the price regularly charged for such drink during the same calendar week; or
    - g. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic beverages or awards alcoholic beverages as prizes.

## Alcoholic Beverages

### C. No licensee shall:

1. Allow any person on the premises where alcoholic beverages are sold or dispensed for consumption on the premises of the licensee where such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic area, buttocks or genitalia;
2. Permit any person to perform act of, or acts which simulate sexual acts;
3. Permit any person to use artificial devices or inanimate objects to depict any lewd activities; or
4. Permit the showing of films, still pictures, electronic reproduction or other visual reproduction depicting any of the acts prohibited in this section.
5. Engage in the retail sale of alcoholic beverages on such days and times as prohibited by state law.

### SECTION 3-113      PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor unless otherwise provided by state law, and upon conviction, shall be punished as provided in Section 1-108 of this code.

# Alcoholic Beverages