

THE VILLAGE CITY CODE

CHAPTER 4

ALCOHOLIC BEVERAGES

Sec. 4-1. Definitions.

All of the terms and phrases used in this Chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act and/or Title 37A O.S., 1- 103, and which definitions include, but are not limited to the following:

ABLE Commission means the Alcoholic Beverage Laws Enforcement Commission.

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" includes, among other things, beer, ale, stout, lager beer, porter, and other malt or brewed liquors, but does not include sake, known as Japanese rice wine.

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.

Low-point beer means and includes beverages containing more than one-half of one percent (.5%) alcohol by volume, and not more than three and two-tenths (3.2%) percent 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.

Mixed beverage means one 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, beer and wine, caterer, public event, charitable event or special event license.

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.

Person means and includes an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity.

Retailer means a package store, grocery store, convenience store or drug store licensed to sell alcoholic beverages for off-premises consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License.

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Spirits means any beverage other than wine or beer, which contains more than one-half of one percent (.5%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution, and includes those products known as whisky, brandy, rum, gin, vodka, liqueurs, cordials, 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.

Wine means and includes any beverage containing more than one-half of one percent (.5%) alcohol measured 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.

State law reference-Similar provisions, 37A O.S. 1-103 Definitions.

(Ord. No. 355, 6(8a-9-8), 9-3-85 Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95)

Sec. 4-2. Occupation tax.

(a) 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:

(1) Retailers:

- a. Retail Wine Licensees, one thousand dollars (\$1,000.00)
- b. Retail Beer Licensees, five hundred dollars (\$500.00)
- c. Retail Spirits Licensees, nine hundred five dollars (\$905.00)

(2) Mixed Beverage Licensees:

- a. Initial, one thousand five dollars (\$1,005.00)
- b. Renewal, nine hundred five dollars (\$905.00)

(3) On Premises Beer and Wine Licensees:

- a. Initial, five hundred dollars (\$500.00)
- b. Renewal, four hundred fifty dollars (\$450.00)

(4) Caterer Licensees:

- a. Initial, one thousand five dollars (\$1,005.00)
- b. Renewal, nine hundred five dollars (\$905.00)

(5) Mixed Beverage / Caterer Combination Licensees:

- a. One thousand, two hundred fifty dollars (\$1,250.00)

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(6) Special Event Licensees:

- a. Annual (up to four events), fifty-five dollars (\$55.00)
- b. Quarterly (up to three events over three-month period), fifty-five dollars (\$55.00)

(7) Public Event Licensees:

- a. Annual (up to six events), one thousand five dollars (\$1,005.00)
- b. One-Time, two hundred fifty-five dollars (\$255.00)

(8) Bottle Club Licensees:

- a. Initial, one thousand dollars (\$1,000.00)
- b. Renewal, nine hundred dollars (\$900.00)

(Ord. No. 697, §1, 09-02-2014)

State Law Reference. O.S. Title 37A, §§ 2-101, et seq.

(b) The occupation tax for those service organizations which are exempt under Section 501 (c) (19), (8) and (10) of the Internal Revenue Code for mixed beverage license shall be five hundred dollars (\$500.00) per year.

(c) Any state licensee 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. The licensee shall provide a copy of his current state license before payment of an occupation tax will be accepted. The licensee shall pay the tax annually on or before June 30 of each year.

(d) All licenses, except as otherwise provided, shall be valid for one (1) year from the date of issuance unless revoked or surrendered; provided, that a special event license shall be valid for a period not to exceed ten (10) consecutive days from the first day the license is valid, said date to be specified on the license, unless otherwise provided by state law.

(e) Upon payment of the occupation tax, the city clerk shall issue a receipt to the state licensee, which said licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.

(f) 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.

(g) 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 the tax.

(Ord. No. 355, 2(8a-9-3), 2(8a-9-2), 3(8a-9-3), 9-3-85 Ord. No. 471, 2, 7-7-92 Ord. No. 510 1, 9-20-94 Ord. No. 519, 1, 10-17-95)

Cross References--licenses, permits, and miscellaneous business regulations, Chapter 11 public intoxication, 12-45 driving while intoxicated, etc., 13-9 et seq. transportation of alcoholic beverages, 13-12 transportation of low-point beer, 13-13.

State law reference—License fees and surcharges, 37A O.S. § 2-101. Occupation tax authorized, 37A O.S., § 4-104.

Sec. 4-3. Certificates of compliance.

(a) Every applicant for a certificate of compliance with the zoning, fire, health, and safety codes of the city required by Title 37A of the Oklahoma Statutes shall apply at the office of the city clerk by:

- (1) Filing a written application on forms prescribed by that office and
- (2) Paying a verification and certification fee in the amount established by resolution at the time of filing.

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 provision of the zoning ordinance and any health, fire, building, and other safety codes applicable to it. The city clerk shall act on all such applications within twenty (20) days of receipt thereof.

(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. The certificates of compliance shall be signed by the mayor or by the city clerk.

(Ord. No. 355, 4(8a-9-6), 5(8a-9-7), 9-3-85\ Ord. No. 519, 1, 10-17-95)

State law reference--Certificates of compliance as prerequisite to state license, 37A O.S. § 2- 142.

Sec. 4-4. Drinking alcoholic beverage on premises.

No person shall drink or consume in any manner alcoholic beverages on the premises of a retailer, nor shall any person open or break the seal of any original package or retail container containing alcoholic beverages on the premises of any such retailer.

(Ord. No. 389, 1, 7-21-87 Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95)

Sec. 4-5. Sale of alcoholic beverages prohibited.

No person shall sell at retail, and no person shall deliver, in consequence or in completion of such a sale, any alcoholic beverages at any place in this city, except at a retailer or mixed beverage establishment in strict conformity with this chapter and the laws of the State of Oklahoma.

(Ord. No. 389, 1, 7-21-87 Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95)

Sec. 4-6. Location of mixed beverage establishment, beer and wine establishment, or bottle club.

A. It shall be unlawful for any mixed beverage establishment, beer and wine establishment or bottle club which has been licensed by the ABLE Commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or 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; however, a college or university located within an improvement district created pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes may waive the three-hundred-foot requirement by providing written notice to the establishment seeking the license and to the ABLE Commission; further, a church may waive the three-hundred-foot requirement by providing written notice to the establishment seeking the license and to the ABLE Commission. Provided, a college or university or church prior to waiving the three-hundred-foot requirement found in this subsection shall publish a notice of its intention to waive such requirement in a legal newspaper of general circulation within the state at least thirty (30) days but no more than forty (40) days prior to providing any written notice, waiving the three-hundred-foot requirement, to the establishment seeking the license or to the ABLE Commission. As used in this subsection "legal newspaper of general circulation within this state" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a majority of the counties in this state.

B. 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 package store which has been licensed to sell alcoholic beverages.

C. The provisions of this section shall not apply to:

1. 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; or

2. Establishments licensed prior to October 1, 2018, to sell low-point beer which were permitted 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, pursuant to the provisions of Section 163.27 of Title 37 of the Oklahoma Statutes. Such establishments shall be permitted to have any license in effect on October 1, 2018, transferred to a mixed beverage license; provided, if such an establishment ceases to regularly be open to the public or changes ownership, the provisions of this paragraph shall cease to apply.

D. If any school or church shall be established within three hundred (300) feet of any package store, mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section after such 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 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.

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E. 1. Any interested party may protest the application for or granting of a license for a 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.

2. 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.

3. 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 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 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 package store, than is allowed by this section.

State law reference - Title 37A O.S., § 2-139 (2019 Edition). (Ord. No. 389, 1, 7-21-87 Ord. No. 471, 2, 7-7-92 Ord. No. 510, 2, 9-20-94 Ord. No. 519, 1, 10-17-95; 2020 City Code)

Sec. 4-7. Sale of alcoholic beverages to minors.

(a) No person shall knowingly sell, deliver, or furnish alcoholic beverages at any place within this city to any person who is under twenty-one (21) years of age.

(b) No person under twenty-one (21) years shall misrepresent his age in writing or present false documentation of age or otherwise for the purpose of inducing any person to sell him alcoholic beverages.

(Ord. No. 389, 1, 7-21-87 Ord. No. 519, 1, 10-17-95)

Sec. 4-8. Consumption/possession of alcoholic beverages by minors.

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 as defined in Section 1-103 of Title 37A of the Oklahoma Statutes.

(Ord. No. 389, 1, 7-21-87 Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95; 2012 Code)

Sec. 4-9. Sale of alcoholic beverage to intoxicated person.

No person, at any place within this city, shall sell, deliver, or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

(Ord. No. 389, 1, 7-21-87 Ord. No. 519, 1, 10-17-95)

Sec. 4-10. Transporting open alcoholic beverage container.

No person within this city shall transport in any vehicle upon any public highway, street, or alley any alcoholic beverages, unless such alcoholic beverage is:

(a) In an unopened container with seal unbroken and the original cap or cork not removed from the container, or

(b) In the trunk or other closed compartment or other container, out of public view and out of reach of the driver or any occupant of the vehicle.

(Ord. No. 389, 1, 7-21-87 Ord. No. 519, 1, 10-17-95)

Sec. 4-11. Public drinking of alcoholic beverages.

a) It shall be unlawful for any person within this city to drink any alcoholic beverage in any public place unless said public place is the location of a special public event, pursuant to a special public event permit approved by the City. The special public event permit shall be subject to conditions and fees established by resolution of the City Council. __

b) It shall be unlawful for any person to be intoxicated in a public place within this city.

(Ord. No. 389, §1, 7-21-87 Ord. No. 519, §1, 10-17-95; Ord. No. 749 §1, 09-16-2019)

Sec. 4-12. Sale of alcoholic beverages by minors.

(a) No person under the age of eighteen (18) years will be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within this city.

(b) No person shall employ or assist or aid in causing the employment of any person under the age of eighteen (18) years at any place within this city in the selling, manufacture, distribution or other handling of alcoholic beverages.

(Ord. No. 389, 1, 7-21-87 Ord. No. 519, 1, 10-17-95)

Sec. 4-13. Minors prohibited from premises of package store.

(a) No owner or proprietor of a package store in this city and no person employed therein shall permit any person less than twenty-one (21) years of age to enter into, to remain within or to loiter about the premises of such package store.

(b) No person under the age of twenty-one (21) years shall enter into, remain within or loiter

about the premises of any package store within this city.

(Ord. No. 389, 1, 7-21-87 Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95)

Sec. 4-14. Minors prohibited from premises of bars, lounges.

(a) No owner or proprietor of a mixed beverage establishment in this city and no person employed therein, shall permit any person under twenty-one (21) years of age to enter into, to remain within or to loiter about the premises of any separate or enclosed lounge or bar area, which has as its main purpose the sale or distribution, of alcoholic beverages for on- premises consumption.

(b) No person under the age of twenty-one (21) years shall enter into, remain within or loiter about the premises of a separate or enclosed lounge or bar area within this city.

(c) 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 of or mixing or serving of alcoholic beverages, in which sales or serving of said beverages are incidental to the main purpose, as long as the persons under twenty-one (21) years of age are not sold or served alcoholic beverages.

For the purposes of this section only, the term "alcoholic beverages" shall include low- point beer as defined in Section 4-1 of this chapter.

(Ord. No. 471, 2, 7-7-92 Ord. No. 519, 1, 10-17-95)

Sec. 4-15. Intoxicated person prohibited from certain locations.

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

(Ord. No. 389, 1, 7-21-87 Ord. No. 519, 1, 10-17-95)

Secs. 4-16--4-35. Reserved.