

Chapter 2

ALCOHOLIC BEVERAGES AND TOBACCO

Article 1. Alcoholic beverages.

Sec. 2-1-1. Definitions.

Words, phrases and terms used in this article shall have the meanings prescribed by and be construed in conformity with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Control Act, with the same force and effect as if said definitions were set forth in full in this article unless the context clearly indicates a different meaning or construction.

(1) "Alcoholic beverage", as used in this article is hereby defined to mean beverages controlled by the Oklahoma Alcoholic Beverage Laws Enforcement Commission under the provisions of the Oklahoma Alcoholic Beverage Control Act, Oklahoma Session Laws, and of Article XXVII, Oklahoma Constitution.

(2) "Retailer" (retail package store), as used in this article, is hereby defined to mean premises authorized by lawful license issued by the Oklahoma Alcoholic Beverage Laws Enforcement Commission for the sale of retail of alcoholic beverages in retail containers to consumers for consumption off the premises and not for resale.

(3) "Licenses", as used in this article, is hereby defined to mean those lawful licenses issued by the Oklahoma Alcoholic Beverage Laws Enforcement Commission for the manufacture, distribution, and sale of alcoholic beverages.

(4) "ABLE Commission" means the Alcoholic Beverage Laws Enforcement Commission.

Sec. 2-1-2. 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 therein stated.

(1)	Brewer License	\$1,250.00
(2)	Distiller License	3,125.00
(3)	Winemaker License	625.00
(4)	Oklahoma Winemaker License	75.00
(5)	Rectifier License	3,125.00
(6)	Wholesaler License	3,500.00
(7)	Class B Wholesaler License	625.00
(8)	Package Store License	905.00
(9)	Mixed Beverage License	1,005.00 (initial license) 905.00 (renewal)
(10)	Beer and Wine License	\$500.00 (initial license) \$450.00 (renewal)
(11)	Caterer License	\$1,005.00 (initial license) \$905.00 (renewal)
(12)	Special Event License-fee per day	\$55.00
(13)	Hotel Beverage License	\$1,005.00 (initial license) \$905.00 (renewal)
(14)	Airline/Railroad Beverage License	\$1,005.00 (initial license) \$905.00 (renewal)
(15)	Agent	\$55.00
(16)	Employee License	\$30.00
(17)	Industrial License	\$23.00

(18)	Carrier License	\$23.00
(19)	Private Carrier License	\$23.00
(20)	Bonded Warehouse License	\$190.00
(21)	Storage License	\$23.00
(22)	Nonresident Seller License	\$750.00
(23)	Manufacturers Agent License	\$55.00
(24)	Sacramental Wine Supplier License	\$100.00

(11/16/98, Ord. No. 98-18)

- (b) The occupation tax for those service organizations, which are exempt under Section 501(c) (19) of the Internal Revenue Code for bottle club license, shall be five hundred dollars (\$500.00) per year.
- (c) If a brewer or a Class B wholesaler also holds a license from the state to manufacture or wholesale any nonintoxicating malt beverage, the occupation tax for such brewer or Class B Wholesaler shall be reduced by seventy-five percent (75%).

Sec. 2-1-3. Payment required; penalty.

- (a) Any state licensee originally entering upon any occupation herein listed shall pay the tax therefore at the office of the city clerk on or before the date upon which he/she 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 (1st) day of April.
- (b) The occupation tax subject to this article shall be prorated on a monthly basis for the year in which an occupation begins operations.
- (c) Upon payment of the occupation tax, the city clerk shall issue a receipt to the state licensee, which the licensee shall post in a conspicuous place on the premises wherein he/she carries on their occupation.
- (d) Any person who engages in any of the occupations taxed by this article without paying the occupation tax imposed therefore in advance of such operation, is guilty of an offence against the city, and upon conviction thereof shall be fined the sum of not more than one hundred dollars (\$100.00) excluding costs. Each day of such violation shall constitute a separate offense.

Sec. 2-1-4. 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 the tax.

Sec. 2-1-5. Advertising.

- (a) It shall be unlawful for any person, firm or corporation to advertise any alcoholic beverages or the sale of same within the City of Chickasha, except one sign at the retail outlet bearing the words "Retail Alcoholic Liquor Store," or any combination of such words or any of them and no letter in any such sign shall be more than four (4) inches in height or more than three (3) inches in width, and if more than one (1) line is used the lines shall not be more than one (1) inch apart.
- (b) No person shall advertise, or cause to be advertised, in any manner, other than as authorized by Section 2-1-5(a), the sale of alcoholic beverages within the limits of this city.

Sec. 2-1-6. Zoning ordinance.

The location of a retail package store, mixed beverage establishment or bottle club shall be subject to the nondiscriminatory zoning ordinances of the City of Chickasha and the location of such entities is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or public school. Provided, that if any such church, or school, shall be established within three hundred (300) feet of any licensed 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, mixed beverage establishment or bottle club along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes 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.

Sec. 2-1-7. Application for certificate; investigations.

- (a) Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city required by Title 37 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 of twenty-five dollars (\$25.00) at the time of filing.
- (b) 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.
- (c) The city clerk shall act on all such applications within twenty (20) days of receipt thereof.

Sec. 2-1-8. 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 mayor or by the city clerk.
- (d) The City may grant conditional certificates for premises proposed for licensed operations for which construction, modification, or alteration is not completed. Conditional certificates shall indicate that the proposed premises will comply with the zoning, fire, safety, and health codes. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the permanent certificate after the completion of the construction, modification, or alteration.
- (e) The city shall issue the certificate within ten (10) days after all final inspections are completed.

Sec. 2-1-9. Display of license - Authorized use - Effect of Suspension of license on other licenses.

All licenses issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be displayed in a conspicuous place at all times on the licensed premises. No licensee may consent to or allow the use or display of his license by a person other than the person to whom the license was issued. No person may use a license or exercise any privileges granted by the license except at the place, address, premises or location for which the license is issued, except as otherwise provided by the Oklahoma Alcoholic Beverage Control Act.

Sec. 2-1-10. Package store license.

- (a) No package store license shall be issued for premises unless said premises are separated from 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. Provided, it shall be unlawful for any person or persons to take any alcoholic beverage from such store through said passageway for the purpose of selling, reselling, or delivering in connection with the sale of said alcoholic beverage. Such licenses shall apply only to the premises described in the application. No person may own any interest in more than one package store. For the purpose only of establishing whether or not a person owns an interest in more than one package store license, the spouse of any person or partner and any person having beneficial interest in any package store shall be deemed to be a partner in said package store. A beneficial interest shall be any interest that benefits from any sales or profits of said package store.
- (b) Package stores licensed under the Oklahoma Alcoholic Beverage Control Act may sell only alcoholic beverages in retail containers as defined in said act, in the original package for consumption off the premises. Provided, all alcoholic beverages are to be sold at ordinary room temperature. All retail sales shall be made on the licensed premises and all deliveries off the premises, at retail, of intoxicating liquor or beer are hereby prohibited.

Sec. 2-1-11. Time of delivery.

No retail package store, and no officer, agent or employee of such a store shall sell or deliver to any retail alcoholic beverage store in this city 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 Veterans Day, on Thanksgiving Day, on Christmas Day, or while the polls are open, on the day of any general primary, runoff primary or special election, whether national, state, county or city.

Sec. 2-1-12. Enumerated prohibited acts.

- (A) No person shall:
 - (1) Knowingly sell, deliver, or furnish alcoholic beverages to any person under 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) Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Control Act;

(5) 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 said vehicle while it is in motion;

(6) 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. This provision shall be cumulative and in addition to existing law;

(7) 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 said Commission;

(8) Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possess a valid membership card for that club issued by the club; or

(9) 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 said 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 he/she 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, caterer, special event or bottle club licensee may employ servers who are eighteen (18) years of age or older, except 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 a 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 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 his employee; 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 his licensed premises;

(3) See, 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 city election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day;

(4) Sell any alcoholic beverage on credit; provided that acceptance by 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 debit 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.

(5) 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 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.

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

(D) Not to permit intoxicated persons on premises:

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 cafe, restaurant, club or place of recreation shall permit any person to be drunk or intoxicated in said place of business.

(11/16/98, Ord. No. 98-18)

(E) Sell only at retail store:

No person shall sell at retail, and no person shall deliver, in consequence or in completion of such sale, any alcoholic beverages at any place in the City of Chickasha, Oklahoma, except at an establishment duly licensed for said sale by the ABLE Commission. *(11/16/98, Ord. No. 98-18)*

Sec. 2-1-13. Misrepresentation of age.

Any person under twenty-one (21) years of age who shall misrepresent his age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him alcoholic beverage or issue him a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor and fined not more than fifty dollars (\$50.00).

Sec. 2-1-14. Possession by minors in public place.

It is unlawful for any person under twenty-one (21) years of age to be in possession of an intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol, by weight, while such person is upon any public street, road, or highway, or in any public building or public place.

Sec. 2-1-15. Erasure, removal etc. of certain information from containers or cases.

Any person who erases, removes, obliterates, destroys, or renders illegible in any manner any serial numbers, marks, brands, legends, license numbers, case numbers or other information required by the Oklahoma Alcoholic Beverage Act or by Acts of Congress to be attached or placed upon any original containers or cases containing alcoholic beverages, before the contents of such packages or cases have been entirely removed, is guilty of a misdemeanor.

Sec. 2-1-16. Persons under 21 years of age not to be admitted to certain lounge or bar areas.

If the premise of a licensee of the Alcoholic Beverage Laws Enforcement Commission contains a separate or enclosed lounge or bar area, which has as its main purpose the sale or distribution, of alcoholic beverages for on-premises consumption, notwithstanding that as an incidental service, meals or short order foods are made available therein, no person under twenty-one (21) years of age shall be admitted to such area. 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 mixing or serving of said 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. The incidental service of food in the bar area shall not exempt a licensee from the provisions of this section. The ABLE Commission shall have the authority to designate the

portions of the premises of a licensee where persons under twenty-one (21) years of age shall not be admitted pursuant to this section. For purposes of this section only, the term "alcoholic beverages" shall include nonintoxicating beverages, as defined in Section 163.2 of Title 37. (11/16/98, Ord. No. 98-18.)

Sec. 2-1-17. Regulating Gatherings Where Minors are Consuming Alcoholic Beverages.

(A) Definitions. For purposes of Section 8.08.295, 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 City 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. (Ord. No. 2007-15, 11-19-2007.)

(B) 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:

- (1) consume any alcoholic beverage at any public place or any place open to the public; or
- (2) consume any alcoholic beverage at any place not open to the public, unless said minor is consuming said alcoholic beverage while being supervised by his or her parent or legal guardian. (*Ord. No. 2007-15, 11-19-2007.*)

(C) Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited.

- (1)
 - (a) 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.
 - (b) 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(1)(a) of this Section.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) This Section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.
- (6) Penalty. Any person who shall violate the provisions of this Section shall be deemed guilty of an offense against the City and upon conviction thereof shall be punished with a fine as provided in Section 2-4-1 of this chapter.
- (7) Reservation of Legal Options. Violations of this Section may be prosecuted by the City of Chickasha criminally, civilly, and/or administratively as provided by the Code of Ordinances of the City of Chickasha. The City 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.

(8) Local Authority. This Section shall not apply where prohibited or preempted by state or federal law. (Ord. No. 2007-15, 11-19-2007.)

Article 2. Nonintoxicating beverages.

Sec. 2-2-1. Definitions.

- (a) "Nonintoxicating beverages" as used herein is hereby defined to mean all beverages containing more than one-half of one percent (1/2 of 1%) alcohol measured by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight.
- (b) "Retail dealer" as used herein means and includes any and all persons, firms, corporations, associations or concessionaires who sell, distribute, or dispense any nonintoxicating beverages as herein defined within the corporate limits of the City of Chickasha, State of Oklahoma, without regard as to any place where such beverages may be consumed or used, provided that any retail dealer as herein defined shall be required to obtain license for each place of business so operated.

Sec. 2-2-2. License fee levied.

There is hereby levied upon each retail dealer of nonintoxicating beverages for consumption on the premises, an annual municipal license fee of twenty dollars (\$20.00); and there is hereby levied upon each retail dealer of nonintoxicating beverages in the original packages and not for consumption on the premises an annual municipal license fee of ten dollars (\$10.00). All such municipal license fees shall be paid to the city clerk at the time of issuance of such license, which shall be issued by the clerk and expire one (1) year from this date, except as provided by this article.

Sec. 2-2-3. License required; penalty.

It shall be unlawful and an offense for any retail dealer, whether permanent or temporary, at any place within the incorporated limits of the City of Chickasha, State of Oklahoma, to sell, distribute, or dispense any nonintoxicating beverages without having first applied for and received a municipal license as herein required; and any person, firm, corporation or association violating any of the terms and provisions of this article shall be guilty of any offense, and upon conviction thereof, or plea of guilty thereto, shall be fined an amount not to exceed the maximum amount allowed by law for a non-jury trial, and court costs. (Ord. No. 2003-05, 05/19/2003.)

Sec. 2-2-4. State and county permits required.

No municipal license shall be issued to any retail dealer by the city clerk of the City of Chickasha until such clerk is satisfied that the applicant has obtained all state and county permits as required by law, and has in all other respects complied with the laws of the State of Oklahoma relating to the sale and distribution of nonintoxicating beverages. No municipal license issued hereunder shall be transferable and no license issued hereunder shall authorize any retail dealer to sell or dispense such nonintoxicating beverages unless such dealer has fully complied with the laws of the State of Oklahoma in reference to the sale of such nonintoxicating beverages.

Sec. 2-2-5. Days and hours of operation.

It shall be unlawful for any place licensed to sell beverages containing more than one-half of one percent (1/2 of 1%) of alcohol by volume and not more than three and two-tenths percent (3.2%) alcohol by weight to sell, dispense, or serve such beverages for consumption on the premises between the hours of two o'clock a.m. and seven o'clock a.m. or allow such beverages to be consumed on the premises between the hours of two o'clock a.m. and seven o'clock a.m. excepting Saturday nights when such beverages may not be sold, dispensed, served, or consumed on the premises between the hours of two o'clock a.m. and twelve o'clock noon on Sundays. (Ord. No. 2006-07, 02/20/2006).

Sec. 2-2-6. Sufficient lighting required.

Any place or establishment where beer is sold for consumption on the premises shall be well and sufficiently lighted at all times when lights therein shall be necessary.

Sec. 2-2-7. Prohibition of sale to minors.

- (a) It shall be unlawful for any person to sell, barter, or give to any person under twenty-one (21) years of age any nonintoxicating beverage, as defined herein.
- (b) It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages 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 nonintoxicating beverages 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 nonintoxicating beverages, 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 nonintoxicating beverages, 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 nonintoxicating beverage on the licensed premises.
- (d) Any person violating the provisions of sub-sections (a), (b), or (c) of this section shall upon conviction be guilty of a misdemeanor.
- (e) No person under twenty-one (21) years of age shall:
 - (1) consume or
 - (2) possess with the intent to consume nonintoxicating beverages, as defined herein in any public place. It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt to purchase nonintoxicating beverages, as defined herein, except under supervision of law enforcement officers. Any person violating any of the provisions of this section shall be guilty, upon conviction, of a misdemeanor and shall be fined an amount not to exceed the maximum amount allowed by law for non-jury trials or by appropriate community service not to exceed twenty (20) hours. 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 no intoxicating beverages. (Ord. No. 2003-05, 05/19/2003.)

- (f) If the premises of a holder of a license to sell nonintoxicating beverages contains a separate or enclosed bar area which has as its main purpose the sale or serving of nonintoxicating beverages 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 nonintoxicating beverages, in which sales or serving of said 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 nonintoxicating beverages 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 a misdemeanor and punished and shall be fined an amount not to exceed the maximum amount allowed by law for non-jury trials. (Ord. No. 2003-05, 05/19/2003.)

Sec. 2-2-8. Unlawful to consume on public property.

No person within this city shall drink nonintoxicating beverages while such person is upon any public street, road or highway, or any city park or city-owned property, or outside any building located on private property that is used for business or commercial purposes, except as follows:

A permit may be issued by the City Council, for a special use event to be held on a public street(s), lakes, or in public parks. The City Council may impose any condition to the permit that is deemed appropriate. A fee shall be established by resolution. (Amended 08/19/2002, Ord. No. 2002-16.) (Refer to Res. No. 2002-15R.)

Sec. 2-2-9. Transportation of nonintoxicating beverages: Offense: exceptions.

It shall be an offense for any person, firm or corporation to knowingly transport in any moving vehicle upon a public highway, street or alley, any nonintoxicating beverage containing more than one half of one percent (1/2 of 1%) alcohol by volume and not more than three and two-tenths (3 2/10%) alcohol by weight 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 be in the rear trunk or rear compartment, which 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.

Sec. 2-2-10. Prohibited performances, displays or acts Penalties.

- (a) No owner, operator, partner, manager, or person having supervisory control of any establishment licensed to sell nonintoxicating beverages shall permit any of the following on or about any commercial premises where nonintoxicating beverages are dispensed or consumed:
- (1) The performance by any person of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts, which are otherwise prohibited by law;
 - (2) The actual intentional touching or caressing or fondling by any person of the breasts, anus or genitals;

(3) Any person on the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals; or

(4) Any person to perform acts of, or acts which simulate, sexual acts which are prohibited by law, or permit any person to use artificial devices or inanimate objects to depict any prohibited activities or permit the showing of films, still pictures, electronic reproductions or other visual reproductions depicting any of the prohibited activities described in this paragraph.

- (b) Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed the maximum fine allowed by law for non-jury trials for each offense. Each act in violation of any provision of this section shall be deemed a separate offense. Conviction for the violation of the provisions of this section shall be deemed a separate offense. Conviction for the violation of the provisions of this section shall be sufficient grounds for revocation by the judge of the district court of any license held by such person authorizing the sale of nonintoxicating or intoxicating beverages. (Ord. No. 2003-05, 05/19/2003.)

Sec. 2-2-11. Sale of nonintoxicating beverages in establishments permitting persons who are unclothed or partially unclothed - Punishment.

- (a) No owner, operator, partner, manager, or person having supervisory control of any establishment that permits any person on the premises who is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals, shall permit nonintoxicating beverages, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, on or about the premises.

- (b) Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed the maximum fine allowed for non-jury trials for each offense. Each act in violation of this section shall be deemed a separate offense. (Ord. No. 2003-05, 05/19/2003.)

Sec. 2-2-12. Employment of person under eighteen years of age in place where alcoholic beverages are sold or dispensed.

- (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 beverages containing more than one-half (1/2 of 1%) of alcohol measured by volume and not more than three and two-tenths (3.2%) of alcohol measured by weight are 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 beverages containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than three and two-tenths (3.2%) of alcohol measured by weight. The provisions of the subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose; however, the incidental services of food

in the bar area shall not exempt a holder of a license to sell nonintoxicating beverages for consumption on the premises from the provisions of this subsection.

- (c) A parent as regards the employment of his own child or children is excepted 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.

Article 3 - Prevention of Nicotine Addiction Among Youth

Sec. 2-3-1. Findings and Intent.

The Chickasha City Council finds that youth addiction to tobacco products is a public health problem with grave health consequences. In recognition that almost 90 percent of all smokers begin smoking by the age of 18, action is needed to curtail the easy access of minors to cigarettes and other addictive tobacco products. Furthermore, the Chickasha City Council finds that the Oklahoma State Legislature has limited the powers granted to local governments to address the problem of youth access to tobacco. Therefore, the intent of this ordinance is to: 1) implement the strictest and most enforceable system allowed under Oklahoma state law to prevent the illegal sale of cigarettes and other tobacco products to minors; 2) periodically amend and update this ordinance as necessary to best utilize any applicable powers, which may be returned to Oklahoma municipalities in the future; and 3) educate, encourage and assist underage tobacco users in ceasing all use of addictive tobacco products, preferably before daily use of such products is initiated.

Sec. 2-3-2. Definitions.

- (1) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;
- (2) "Proof of age" means a driver's license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;
- (3) "Sample" means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product;
- (4) "Sampling" means the distribution of samples to members of the public; and
- (5) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

Sec. 2-3-3. Distribution and sales to minors prohibited; Identification required; Defense; Fines.

- (a) It is unlawful for any person to sell or furnish in any manner any tobacco product to another person who is under eighteen (18) years of age, or to purchase in any manner a tobacco product on behalf of any such person.
- (b) It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.
- (c) A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an

ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

- (d) If an individual engaged in the sale or distribution of tobacco products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of this section.
- (e) If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine.
- (f) Proof that the defendant demanded, was shown, and reasonably relied upon proof of age, shall be a defense to any action brought pursuant to this section.
- (g) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of subsection (a) or (b) of this section, each individual franchise or business location shall be deemed a separate entity.
- (h) Any person who shall violate subsection (a) or (b) of this section shall be guilty of an offense and may be assessed a fine not to exceed the maximum fine allowed by law for non-jury trials. (*Ord. No. 2003-05, 05/19/2003.*)
- (i) Upon failure of any person to pay any fine authorized by this section within ninety (90) days of the day of the assessment of such fine, the court clerk or his/her designee shall notify the Oklahoma Department of Public Safety, as such Department is authorized to suspend or not issue a driver's license to the person until proof of payment has been provided.

Sec. 2-3-4. Distribution of tobacco product samples restricted; Fines.

- (a) No person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by the persons under eighteen (18) years of age.
- (b) Any person who shall violate subsection (a) of this section shall be guilty of an offense and may be assessed a fine not to exceed the maximum fine allowed by law for non-jury trials. (*Ord. No. 2003-05, 05/19/2003.*)
- (c) Upon failure of any person to pay any fine authorized by this section within ninety (90) days of the day of the assessment of such fine, the court clerk or his/her designee shall notify the Oklahoma Department of Public Safety, as such Department is authorized to suspend or not issue a driver's license to the person until proof of payment has been provided.

Sec. 2-3-5. Sale of tobacco except in original sealed packaging prohibited; Fine.

- (a) It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.
- (b) Any person who shall violate subsection (a) of this section shall be guilty of an offense and may be assessed a fine not to exceed the maximum fine allowed by law for non-jury trials. (*Ord. No. 2003-05, 05/19/2003.*)

Sec. 2-3-6. Possession of tobacco by minors prohibited; Falsifying proof of age; Punishment; Remedial activities; Expungement of conviction.

- (a) Except as provided under Section (3) (b), it is unlawful for a person who is under eighteen (18) years of age to purchase, receive, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product.

- (b) On conviction of an individual for an offense under subsection (a) of this section, the court shall suspend execution of sentence and shall require the defendant to attend a tobacco education program. The court shall require the parent or guardian of the defendant to attend the tobacco education program with the defendant.
- (c) If access to the tobacco education program is not readily available, the court shall require the defendant to perform eight to 12 hours of tobacco-related community service instead of attending a tobacco education program.
- (d) The tobacco education program and the tobacco-related community service are remedial and are not punishment.
- (e) No later than the 90th day after the date of conviction under subsection (a) of this section, the defendant shall present to the court, in a manner required by the court, evidence of satisfactory completion of the tobacco education program or the tobacco-related community service.
- (f) On receipt of the evidence required under subsection (e) of this section, the court shall:
 - (1) If the defendant has been convicted of a previous offense under subsection (a) of this section which offense occurred within one year prior to the offense for which the defendant is currently charged, execute the sentence, and at the discretion of the court, assess a fine not to exceed the maximum fine allowed by law for non-jury trials. (*Ord. No. 2003-05, 05/19/2003.*)
 - (2) If the defendant has not been convicted of a previous offense under subsection (a) of this section which offense occurred within one year prior to the offense for which the defendant is currently charged, dismiss the complaint, and discharge the defendant.
- (g) If the court dismisses the complaint under subsection (f) (2) of this section, the defendant is released from all penalties and disabilities resulting from the offense except that the defendant is considered to have been convicted of the offense if the defendant is subsequently convicted of the same charge if such a repeat offense occurs within one year of the dismissed offense.
- (h) Any person convicted of an offense under subsection (a) of this section may apply to the court to have the conviction expunged. If the court finds that the individual satisfactorily completed the tobacco education program or tobacco-related community service ordered by the court and that there has been no subsequent offense for a period of at least one year after the date of the offense for which the person was convicted, the court shall order the conviction and any complaint, verdict, sentence, or other document relating to the offense to be expunged from the individual's record and the conviction may not be shown or made known for any purpose.
- (i) If the defendant does not provide the evidence required under subsection (e) of this section within the period specified by that subsection or upon failure of the defendant to pay any fine authorized by this section within ninety (90) days of the day of the assessment of such fine, the court clerk or his/her designee shall notify the Oklahoma Department of Public Safety, as such Department is authorized to suspend or not issue a driver's license to the person until the required evidence or proof of payment has been provided.

Sec. 2-3-7. Reporting.

The City Clerk or his/her designee shall furnish any information or reports required or requested by the Oklahoma Alcoholic Beverages Laws Enforcement (ABLE) Commission in the form, manner and time as may be determined by the ABLE Commission.

Sec. 2-3-8. Nonretaliation.

No person shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, applicant, or customer reported violations of any provisions of this ordinance.

Sec. 2-3-9. Repealer.

All ordinances or parts thereof, which are inconsistent with this ordinance, are repealed upon the effective date of this ordinance.

Sec. 2-3-10. Savings Clause.

Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Sec. 2-3-11. Severability.

If any one or more of the sections, sentences clauses, or parts of this ordinance, chapter, or section shall for any reason be held invalid, the invalidity of such section, clause, or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the Mayor and City Council of the City of Chickasha that this Chapter of the Chickasha Municipal Code would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part not been included.

Article 4. Penalty.

Sec. 2-4-1. Penalty.

Unless otherwise provided for in this Chapter, any person violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction, shall be fine not to exceed the maximum fine allowed by law for non-jury trials. (*Ord. No. 2003-05, 05/19/2003.*)