

**TITLE 4**  
**BUSINESS AND LICENSE REGULATIONS**

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## CHAPTER 1

**OCCUPATIONAL LICENSES GENERALLY**

## SECTION:

- 4-1-1: License Required
- 4-1-2: Issuance; Application
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4-1-1:       **LICENSE REQUIRED:** It is unlawful for any person, firm or corporation, either as principal, officer, agent, servant or employee, to engage in any of the callings, trades, professions or occupations for which a license is required, without first paying to the town the fee or tax required, and procuring from the town a license. (1999 Code § 9-101)

4-1-2:       **ISSUANCE; APPLICATION:**

- A.       Issuance: All licenses shall be issued by the town clerk-treasurer. No license shall be issued until all conditions prescribed by ordinance have been complied with, and a certificate of examination or inspection filed with the town clerk-treasurer, in those cases where examination or inspection is required by ordinance.
- B.       Application: Any applicant for a license shall make application upon such forms as may be prescribed by ordinance or as may be prescribed by the town clerk-treasurer. (1999 Code § 9-102)

4-1-3:           **LICENSE PERIOD:** All licenses shall expire annually, unless a different date of expiration is provided by the ordinance providing for the particular license. (1999 Code § 9-103)

4-1-4:           **PAYMENT OF FEES; PRORATION:** All license fees shall be paid in advance for the license period for which issued. The license fee may be prorated for a new business in proportion to the amount of the year remaining during which time it will operate. However, at the direction of the town board, the town clerk-treasurer may issue licenses to licensees, sending them statements for fees due, and if the same is not paid within sixty (60) days from the due date, the license shall thereupon become null and void. (1999 Code § 9-104)

4-1-5:           **TRANSFER:** No license shall be sold or otherwise transferred. (1999 Code § 9-105)

4-1-6:           **LICENSE DISPLAY:**

- A.    It is the duty of any person, having obtained a license for any authorized purpose, to have the same placed or posted in a secure manner in some public place on the premises occupied and used for such business and where the license may be readily seen at any time by any person entering the place of business.
- B.    Any licensee who does not occupy any certain premises for the conduct of such licensed business shall carry his license on his person and shall display the same whenever requested. (1999 Code § 9-106)

4-1-7:           **EXEMPTIONS:** The following shall be exempt from the provisions of this chapter:

- A.    A farmer selling in town produce actually produced by him in this county;
- B.    All scientific or literary entertainers or lecturers;
- C.    All concerts, musicals or other entertainment given exclusively by the citizens of the town; and

- D. All entertainments, the proceeds from which are to be devoted to charity or to public uses or improvements. (1999 Code § 9-108)

4-1-8: **LICENSE FEE SCHEDULE:**

- A. There is hereby assessed and levied a tax or license fee, which fee shall be set by the town board by motion or resolution, upon each of the persons engaging in any of the occupations, trades or businesses, licensed or taxed by the town, for which such person shall first procure a license therefor. Any person who shall engage in more than one business, trade or occupation on which any license fee is required by the town ordinances, so long as such businesses are operated under one roof and one ownership, shall pay only one license fee.
- B. All businesses and occupations in the town are subject to license herein. Fees for each license are adopted by motion or resolution of the town board. (1999 Code § 9-109)

4-1-9: **REVOCAION OR SUSPENSION OF LICENSE; APPEAL:**

- A. Revocation Or Suspension; Notice: All licenses issued by the town shall be subject to revocation by a duly authorized officer of the town board upon any breach of any condition prescribed by ordinance for the regulation of such licensed occupation or in the event such licensee operates such licensed occupation or business in violation of the laws of the town or the state, or in violation of any law or regulation of the United States government. The "duly authorized officer" shall mean the town clerk-treasurer in all instances except when some other person or board is given the authority by ordinance to revoke or suspend the particular license. The duly authorized officer shall either give written notice by personal service, or by mail to the licensee, of the revocation of his license, or the suspension of the same, which notice, if mailed, shall be mailed to the address given on the application or license. The license shall stand revoked or suspended from the time of the giving of such notice.
- B. Appeal; Hearing: Any licensee, however, may appeal to the town board from such decision within ten (10) days after the aforesaid notice by filing a written request with the town clerk-treasurer for a hearing. The hearing shall be held by the town board at the next regular meeting following the filing of the appeal, but may be continued from day to day. The appealing licensee may be repre-

mented by counsel. The hearing shall be conducted in an informal manner, but no license shall be revoked or suspended except upon a preponderance of the evidence. The board may affirm, modify or vacate the order of revocation or suspension, and its decision shall be final. (1999 Code § 9-107)

## CHAPTER 2

## ALCOHOLIC BEVERAGES AND LOW POINT BEER

**ARTICLE A. ALCOHOLIC BEVERAGES**

## SECTION:

- 4-2A- 1: Definitions
- 4-2A- 2: Levy And Payment Of Occupation Tax
- 4-2A- 3: Application For License; Conditions
- 4-2A- 4: Application For Certificate Of Zoning And Code Compliance
- 4-2A- 5: State And Town Licenses Required
- 4-2A- 6: General Prohibitions
- 4-2A- 7: Restrictions Concerning Underage Persons
- 4-2A- 8: Transportation In Vehicles; Exception
- 4-2A- 9: Consumption In Public Places
- 4-2A-10: Location Of Retail Package Stores, Mixed Beverage Establishments
- 4-2A-11: Package Store Premises Separate From Other Business Premises
- 4-2A-12: Hours Of Operation
- 4-2A-13: Sale Or Delivery Prohibited On Certain Days

4-2A-1: **DEFINITIONS:**

- A. Compliance With Statute: Definitions of terms used in this article shall be in conformity with those provided in 37 Oklahoma Statutes section 506.
- B. Specific Terms Defined: For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

**ABLE COMMISSION:** The alcoholic beverage laws enforcement commission of the state.

**ALCOHOLIC BEVERAGE:** 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, but does not include "low point beer" as that term is defined in section 4-2B-1 of this chapter.

**LICENSEE:** 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.

**MIXED BEVERAGES:** 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, or special event license.

**SALE:** Any transfer, exchange or barter in any manner or by any means whatsoever, and includes all sales made by any person, whether as principal, proprietor, agent, servant or employee. The term "sale" shall also include the use or consumption of any alcoholic beverage obtained within or imported from without this state upon which the excise tax levied by the laws of the state has not been paid or exempted. (1999 Code § 3-101; amd. 2013 Code)

**4-2A-2: LEVY AND PAYMENT OF OCCUPATION TAX:**

- A. Tax Levied: There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and pursuant to the provisions of 37 Oklahoma Statutes section 554.1 in the amount set out by state law as the maximum allowable for the town to levy, unless the tax is otherwise set by the town board of trustees by motion or resolution.

- B. Brewer And Class B Wholesaler: The occupation tax for a brewer and a class B wholesaler shall be reduced by seventy five percent (75%) if the brewer of class B wholesaler is also the holder of a license from the state to manufacture or wholesale any low point beer as provided in 37 Oklahoma Statutes section 518.
- C. Payment In Advance; License Term: The occupation tax levied herein shall be paid in advance to the town clerk-treasurer who shall issue a receipt therefor. The license shall expire annually on June 30.
- D. Issuance Of Receipt; Record Of Licensees: Upon payment of the occupation tax, the town clerk-treasurer shall issue a receipt, signed by the clerk-treasurer, to the state licensee paying such occupational tax. The town clerk-treasurer shall also record the name of the licensee and the address where the licensee engages in his occupation. Such record shall be duly filed and kept in the permanent files of the town for at least five (5) years. Thereafter, upon resolution by the board of trustees, it may be destroyed.
- E. Posting Of Receipt On Premises: Any state licensee shall post his tax receipt in a conspicuous place on the premises wherein he carries on his occupation.
- F. Limitation Of Coverage; Nonrefundable: The occupation tax shall cover only the person paying the tax and no other or a successor thereof, and shall not be refundable.
- G. Annual Report To State: The town clerk-treasurer shall make and transmit to the ABLE commission an annual report showing the number and class of licenses subject to the tax and the amount of money received therefrom.
- H. Failure To Pay Tax; Suit For Recovery: All sums due from any person by reason of occupation taxes imposed by this article and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable at the suit of the town, brought against such person in any court of competent jurisdiction. In any suit, in addition to the tax and penalties, the plaintiff shall recover interest, at the rate of ten percent (10%) per annum, upon all sums due by way of tax and penalty from the date of accrual thereof, and all costs of collection, judicial or otherwise, including reasonable attorney fees, all to be determined by the court. Prosecution for an offense against the town, arising out of the failure to pay a tax levied by this article, regardless of the outcome thereof or its continued pendency, shall



not constitute a defense or bar in any manner to the collection of the tax and penalties, if any are due, as herein provided. (1999 Code § 3-102)

**4-2A-3: APPLICATION FOR LICENSE; CONDITIONS:**

- A. Contents Of Application: Every person desiring to obtain a license as provided for herein shall make application to the town clerk-treasurer on forms to be provided setting forth the location of the business, the names of all persons interested in the business, together with their addresses; if a corporation, the application shall include the names of the president and managing officer.
- B. Requirements For Issuance Of License: No licensee shall be issued a license without satisfactory showing that the applicant has:
  - 1. Satisfied the conditions of this article;
  - 2. Obtained all applicable state and county permits or licenses; and
  - 3. Paid the tax as required herein.
- C. Compliance With Zoning Regulations: No license shall be issued or valid unless the licensee meets the requirements of the town zoning ordinances and regulations. (1999 Code § 3-103)

**4-2A-4: APPLICATION FOR CERTIFICATE OF ZONING AND CODE COMPLIANCE:**

- A. Conditions Of Application: Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the town required by 37 Oklahoma Statutes shall apply at the office of the town clerk-treasurer by:
  - 1. Filing a written application on forms prescribed by that office; and
  - 2. Paying a verification and certification fee in the amount as set by the board of trustees at the time of filing.
- B. Investigation Of Premises: Upon receipt of an application for a certificate of compliance, the town clerk-treasurer shall cause an investigation to be made to determine whether the premises proposed for licensed operations complies with the provisions of the

zoning ordinance and any health, fire, building or other safety codes applicable to such premises.

C. Issuance Of Certificates:

1. 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.

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

3. The certificates of compliance provided for in this subsection shall be signed by the town clerk-treasurer. (1999 Code § 3-104)

4-2A-5:       **STATE AND TOWN LICENSES REQUIRED:** No person shall own, operate or maintain a retail package store or mixed beverage establishment, or produce, manufacture, distribute, rectify, bottle or sell any beer, spirits, wine or other alcoholic beverage, without first obtaining valid licenses issued by the state and the town. (1999 Code § 3-105)

4-2A-6:       **GENERAL PROHIBITIONS:**

A. Sale, Possession And Consumption: No person shall:

1. Purchase any alcoholic beverage at retail or wholesale from any person other than a dealer licensed by the ABLE commission; or

2. Except as otherwise permitted in this article, 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; or

3. Open a container of intoxicating beverages or consume alcoholic beverages on the premises of a retail package store; or

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. Giving As Prize; Happy Hours: 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; or

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

a. Deliver more than two (2) drinks to one person at one time;

b. Sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;

c. Sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;

d. Sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

e. Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or

f. Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

C. Lewdness Or Obscenity: No licensee shall:

1. Allow any person on the premises where low point beer or 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 acts 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 prohibited acts in this subsection.

- D. Drink Solicitation: No licensee shall permit any drink solicitation, or request from a patron to purchase any low point beer or intoxicating alcoholic beverage for consumption on the premises of the licensee, as that term is defined in this article. (1999 Code § 3-108)

4-2A-7:       **RESTRICTIONS CONCERNING UNDERAGE PERSONS:**

A. Sales To Prohibited:

1. No person shall sell, deliver, furnish or give any alcoholic beverage to any person under the age of twenty one (21) years, except that this sentence shall not apply to a parent or guardian as regards his child or children.

2. No licensee shall permit any person under twenty one (21) years of age to enter, remain within or be about the premises of a retail package store or mixed beverage establishment.

3. No person under twenty one (21) years of age shall enter, remain within or be about the premises of a retail package store or mixed beverage establishment. (1999 Code § 3-106)

- B. Misrepresentation Of Age: No person shall misrepresent his age either orally or in writing or by presenting false or altered documentation of age for the purpose of inducing any person to sell him alcoholic beverages. (1999 Code § 3-110)

- C. Employment Of Underage Persons: No licensee shall employ, assist or aid in causing the employment of any person under the age of twenty one (21) years in the sale, manufacture, distribution or other handling of alcoholic beverages. However, a mixed beverage, caterer, or special event licensee may employ servers who are eighteen (18) years of age or older, except in designated bar or lounge areas. (1999 Code § 3-111)

- D. Possession: No person under the age of twenty one (21) years shall be in possession of any alcoholic beverage while such person is upon any public street, road, highway or in any public place. (1999 Code § 3-112)

**4-2A-8: TRANSPORTATION IN VEHICLES; EXCEPTION:**

- A. Restriction: No person shall knowingly transport alcoholic beverages in any vehicle upon any public highway, street or alley unless in the original container which is unopened, the seal unbroken and the original cap in place.
- B. Exception: Subsection A of this section shall not apply if the opened container is in the rear trunk or compartment or the spare tire compartment in a vehicle commonly known as a station wagon or panel truck, or in any outside compartment which is inaccessible to the driver or any passenger while the vehicle is in motion. (1999 Code § 3-107)

**4-2A-9: CONSUMPTION IN PUBLIC PLACES:** No person within the town shall drink intoxicating liquor in any public place, unless authorized by the alcoholic beverage control act, nor shall any person be intoxicated in a public place within the town. (1999 Code § 3-109)

**4-2A-10: LOCATION OF RETAIL PACKAGE STORES, MIXED BEVERAGE ESTABLISHMENTS:**

- A. No person shall own, operate, maintain or have any interest in any retail package store which is located at a place in the town which is forbidden as a location for such store by state laws or town ordinances.
- B. The location of a retail package store or mixed beverage establishment is specifically prohibited within three hundred feet (300') from any church property primarily and regularly used for worship services and religious activities, or public school. If any such church or school shall be established within three hundred feet (300') of any licensed premises after such premises had been licensed, this shall not be a bar to renewal of such license by the alcoholic beverage laws enforcement commission so long as it has been in continuous force and effect. The distance 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 or mixed beverage establishment along the street right of way line providing the nearest direct route usually traveled by pedestrians between such points. A retail package store or mixed beverage establishment shall not be

located on any town block where a church or school is located.  
(1999 Code § 3-113)

4-2A-11:     **PACKAGE STORE PREMISES SEPARATE FROM OTHER BUSINESS PREMISES:** No person shall maintain, operate, or assist in any manner in the maintenance or operation of a package store upon premises which are not separated from adjoining premises, on which any other goods, wares or merchandise are sold or services are rendered, by nontransparent walls, broken only, if at all, by a passage to which the public is not admitted. No person shall take any alcoholic beverage through such passageway for the purpose of selling or reselling such beverage, or for the purpose of delivery thereof in connection with a sale of such beverage. (1999 Code § 3-115)

4-2A-12:     **HOURS OF OPERATION:**

- A.     Package Store Premises: No package store licensee shall sell or keep a package store premises open for the purpose of selling any alcoholic beverages at any hour other than between the hours of ten o'clock (10:00) A.M. and nine o'clock (9:00) P.M., Monday through Saturday.
- B.     Beverages Sold On Premises: No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed drink beverage licensee or bottle club between the hours of two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. No licensee shall permit any person, who has in his possession an open container, having as its contents an intoxicating alcoholic beverage, to remain in mixed beverage establishments between the hours of two fifteen o'clock (2:15) A.M. to ten o'clock (10:00) A.M. No person, having in his possession an open container, having as its contents an intoxicating alcoholic beverage, shall remain in mixed beverage establishment between the hours of two fifteen o'clock (2:15) A.M. to ten o'clock (10:00) A.M. For the purpose of this section, an "open container" shall mean any receptacle containing low point beer or intoxicating alcoholic beverage, to include the original container of the beverage where the original seal has been broken or opened. (1999 Code § 3-114)

**4-2A-13: SALE OR DELIVERY PROHIBITED ON CERTAIN DAYS:**

- A. Compliance With State Law: No licensee shall engage in retail sale of alcoholic beverages on such days and times as prohibited by the state law. (1999 Code § 3-116)
- B. Days Enumerated: No wholesale dealer in alcoholic beverages shall sell or deliver to any package store and no package store shall sell any amount of spirits or wines on Saturday or Sunday of any week or on New Year's Day, Memorial Day, the Fourth Of July, Labor Day, Thanksgiving Day or Christmas Day. (1999 Code § 3-116; amd. 2013 Code)

## CHAPTER 2

## ALCOHOLIC BEVERAGES AND LOW POINT BEER

**ARTICLE B. LOW POINT BEER**

## SECTION:

- 4-2B-1: Definitions
- 4-2B-2: State License
- 4-2B-3: Retail Dealer's License Required; Fees
- 4-2B-4: Application For License
- 4-2B-5: Location Of Retail Dealers
- 4-2B-6: Restrictions Concerning Underage Persons
- 4-2B-7: Sales Prohibited During Certain Hours; Exception
- 4-2B-8: Transportation In Vehicles; Exception
- 4-2B-9: Inspection By Town Officers

4-2B-1: **DEFINITIONS:** For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

**LOW POINT BEER:** All beverages containing more than one-half of one percent (0.5%) 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:** A person who, in accordance with state law, has not yet attained the age at which the consumption of low point beer is permitted.

**RETAIL DEALER:** Means and includes any and all persons who sell, distribute or dispense any low point beer at retail to the public for consumption or use, whether consumed on the premises or not. (1999 Code § 3-201; amd. 2013 Code)



4-2B-2:       **STATE LICENSE:** No person shall engage in the business of selling, offering for sale or distributing any low point beer, at retail, for consumption or use, without first having obtained a state license to do so, and in cases where such beverages are consumed on the premises, a license as provided by the statutes of the state. (1999 Code § 3-202)

4-2B-3:       **RETAIL DEALER'S LICENSE REQUIRED; FEES:**

A.     License Required, Payment Of Fee: No person shall sell, distribute or dispense any low point beer at retail to the public without first having obtained a license to do so from the town, and making payment in advance to the town clerk-treasurer in the amount as provided herein.

B.     Fee Set By Town Board; Term Of License:

1. The annual fee shall be set by the town board by motion or resolution for a license under this article for retail dealers selling low point beer for consumption on or off the premises, and retail dealers selling low point beer in original packages and not for consumption on the premises.

2. The license shall expire annually on June 30.

C.     License Nontransferable: No license issued hereunder is transferable.

D.     Conditions For Issuance: Licenses required by this article shall be issued by the town clerk-treasurer upon payment of the required fee and compliance by the applicant with all applicable ordinances of the town, and upon a satisfactory showing that the applicant has obtained such state and county permits as are required by law. (1999 Code § 3-203)

4-2B-4:       **APPLICATION FOR LICENSE:** An applicant for a retail dealer's license or renewal of such license shall deposit the required fee with the town clerk-treasurer and submit an application on the form provided containing the information required by the town. (1999 Code § 3-204)

4-2B-5:       **LOCATION OF RETAIL DEALERS:** No person shall own, operate, maintain or have any interest in any retail dealer which is located at a place in the town which is forbidden as a location for such store by state laws or town ordinances. (1999 Code § 3-214)

4-2B-6:       **RESTRICTIONS CONCERNING UNDERAGE PERSONS:**

A.       Prohibited On Premises; Exceptions:

1. It is unlawful for any person who holds a license to sell and dispense low point beer for consumption on the premises, or any agent, servant, or employee of the license holder to permit any minor to be admitted to or remain in a separate or enclosed bar area of the licensed premises which has as its main purpose the selling or serving of low point beer for consumption on the premises, unless the minor's parent or legal guardian is present. The provisions of this subsection shall not prohibit minors from being admitted to an area which has as its main purpose some objective other than the sale or serving of low point beer, in which sales or serving of the beverages are incidental to the main purpose, as long as minors are not sold or served the beverages; however, the incidental service of food in the bar area shall not except a licensee, agent, servant, or employee from the provisions of this subsection.

2. If the premises of a holder of a license to sell low point beer contains a separate or enclosed bar area which has as its main purpose the sale or serving of low point beer for consumption on the premises, no minor shall enter, attempt to enter, or remain in the area. The provisions of this subsection shall not prohibit minors from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of low point beer, in which sales or serving of the beverages are incidental to the main purpose, if the minors are not sold or served or do not consume low point beer anywhere on the premises; however, the incidental service of food in the bar area shall not exempt minors from the provisions of this subsection.

3. A showing by competent testimony that a minor was found upon premises of a retail dealer shall be prima facie evidence of a violation of subsection A2 of this section. (1999 Code § 3-205)

B.       Sales To: It is unlawful for any person who holds a license to sell and dispense low point beer, or any agent, servant or employee of the license holder, to sell, barter or give to any minor any low point

beer. This subsection shall not apply to a parent as regards his own child or children. (1999 Code § 3-206)

C. Employment Of Underage Persons:

1. It is unlawful for any person under eighteen (18) years of age to be employed or permitted to work, in any capacity whatsoever, in a place where low point beer is sold or dispensed for consumption on the premises.

2. It is unlawful for any minor to be employed or permitted to work, in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of low point beer. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of low point beer, in which sales or serving of the beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell low point beer for consumption on the premises from the provisions of this subsection.

3. A parent as regards the employment of his own child or children is excepted from the provisions of this subsection; provided, that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages.

4. The provisions of subsection C1 of this section shall not apply to any business or establishment where sales of the beverages do not exceed twenty five percent (25%) of the gross sales of the business or establishment. (1999 Code § 3-207)

D. Possession While In Public: No minor shall be in possession of any low point beer or beer while such person is upon any public street, building or place. (1999 Code § 3-210)

E. Consumption In Public Place:

1. No minor shall consume or possess with intent to consume low point beer in any public place.

2. Any person violating the provisions of this subsection shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished as provided in section 1-4-1 of this code, or by appropriate community service not to exceed twenty (20) hours.

3. The provisions of this subsection 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 beer as provided for in 37 Oklahoma Statutes section 163.11. (1999 Code § 3-211)

- F. Misrepresentation Of Age: No person shall represent his age either orally or in writing or by presenting false or altered documentation of age for the purpose of inducing any person to sell him low point beer. (1999 Code § 3-212)

**4-2B-7: SALES PROHIBITED DURING CERTAIN HOURS; EXCEPTION:**

- A. No retail dealer licensed to sell low point beer shall sell such beverages for consumption on the premises on Sundays between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. the following morning, or between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. on any other day.
- B. No retail dealer of any business selling "low point beer", as that term is defined in section 4-2B-1 of this article, for consumption on the premises, nor any operator, agent, or employee of the retail dealer, shall permit any person, who has in his possession an open container having as its contents a low point beer, to remain in the premises between the hours of two fifteen o'clock (2:15) A.M. Sunday and seven o'clock (7:00) A.M. the following Monday, or between the hours of two fifteen o'clock (2:15) A.M. and seven o'clock (7:00) A.M. on any other day. No person, having in his possession an open container having as its contents a low point beer, shall remain in the premises between the hours of two fifteen o'clock (2:15) A.M. Sunday and seven o'clock (7:00) A.M. the following Monday or between the hours of two fifteen o'clock (2:15) A.M. and seven o'clock (7:00) A.M. on any other day. For the purpose of this section, an "open container" shall mean any receptacle containing low point beer or intoxicating alcoholic beverage, to include the original container of the beverage where the original seal has been broken or opened.
- C. No retail dealer licensed to sell low point beer shall sell such beverages for consumption off the premises on any day between two o'clock (2:00) A.M. and six o'clock (6:00) A.M. (1999 Code § 3-208)

4-2B-8:       **TRANSPORTATION IN VEHICLES; EXCEPTION:** No person shall knowingly transport in any moving vehicle upon a public highway, street or alley within the town any low point beer except in the original container which shall have not been opened and from which the original cap or seal shall have not 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. (1999 Code § 3-209)

4-2B-9:       **INSPECTIONS BY TOWN OFFICERS:** Town officers may make inspections of all places of business where low point beer is sold, distributed, or dispensed at retail, for the purpose of enforcing the laws and for ascertaining whether the operators thereof are complying with the requirements of the law relating to the handling of low point beer. (1999 Code § 3-213)

CHAPTER 3  
ITINERANT VENDORS

## SECTION:

- 4-3- 1: Definitions
- 4-3- 2: License Required
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- 4-3- 4: Application For License
- 4-3- 5: Investigation, Approval Or Disapproval
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- 4-3- 9: Identification Tag Or Badge, Display
- 4-3-10: Exceptions
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- 4-3-12: Consent Or Invitation Required
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4-3-1:       **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them herein:

**COMMERCIAL:**               Soliciting for a business purpose which is intended to be for profit and is not intended to be charitable, religious, not for profit or political.

**ITINERANT:**               Having no regular place of doing business or soliciting in the town and includes, but is not limited to, making regular delivery or providing goods over an established route through the town.

**PEDDLER:**               A person soliciting commercial orders for goods or services which are to be provided from stocks or goods carried with the peddler or which are services provided by the peddler at the time the order is made.

**SOLICITING:** All activities of peddlers, solicitors and vendors attempting to obtain business. Such activities may include, but are not limited to, distribution of handbills or leaflets to the public directly or by placing them in a mailbox, on a doorknob or otherwise on any property; coming personally onto any property for the purposes defined herein; calling the occupants of any property by telephone for the purposes herein defined; or calling or inviting any prospective customers to purchase or obtain merchandise, product or service.

**SOLICITOR:** A person soliciting commercial orders for goods or services which are to be provided or shipped to the consumer at a later date.

**VENDOR:** Any person engaged in a business or occupation selling or offering to sell any merchandise, product or service, and includes, but is not limited to, peddlers and solicitors. (1999 Code § 9-201)

**4-3-2: LICENSE REQUIRED:** Any itinerant vendor, solicitor or peddler shall obtain a license from the town prior to any soliciting in the town, unless exempted herein, to cover each person who will be soliciting and each location or separate place of business. (1999 Code § 9-202; amd. 2013 Code)

**4-3-3: LICENSE FEES:** The fees for licenses herein required shall be as set by the town board of trustees by motion or resolution. The fees may be waived for educational, charitable, or religious groups, qualifying as 501(c)(3) organizations who make house to house solicitations. (1999 Code § 9-203)

**4-3-4: APPLICATION FOR LICENSE:**

A. Individual License Application: Applicants for licenses shall file, during regular business hours, a written application signed by the applicant, if an individual, by all partners if a partnership, and by a

qualified corporate officer, if a corporation, with the licensing officer, showing:

1. Name and address of the person or persons having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the town; the location or address of such person or persons when engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the same is incorporated.
2. The place or places in the town within the proper zoning classification, where it is proposed to carry on the applicant's business and the length of time during which it is proposed that the business be conducted.
3. Place or places, other than permanent place of business of the applicant, within the six (6) months next preceding the date of the application, where the applicant has conducted a transient business.
4. The nature of the goods or products being sold, that is whether they are "seconds", rejects or first line quality, and whether any warranty applies to the items being sold. If a warranty applies, the period of the warranty and the name and address of the warrantor and the procedures for filing for the adjustment of refund shall be specified.
5. A statement that the applicant agrees to the requirement to pay all state and town sales taxes due on all items which are subject to sales taxes and recognizes that a copy of all applications will be provided to the local office of the Oklahoma tax commission.
6. Current state sales tax permit number.
7. Current license or permit, if any, which may be required by state law or ordinances of the town for the particular activity or business.
8. If a motor vehicle is to be used in the business, a description of the vehicle together with motor vehicle registration number and the license number for the vehicle; and
  - a. Proof of liability insurance required by state law; and



b. Proof or verification from the insurance carrier that the town clerk-treasurer will be provided at least ten (10) days' notice of any cancellation.

9. Proof of 501(c)(3) tax status if claiming exemption from the license fees.

B. Blanket License Application: Applicants for a blanket itinerant vendor license shall file during regular business hours a written application signed by the applicant, if an individual, by all partners, if a partnership, and by a corporation officer, if a corporation, with the clerk-treasurer showing:

1. Name and address of the person having the management or supervision of the building in which the itinerant vendor shall conduct business.

2. Name and address of the person having the management or supervision of the applicant's business during the time that is proposed to be carried on in the town; the location or address of such person when engaged in such business; the permanent address of such person; the capacity in which such person will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the same is incorporated and licensed to operate in the state.

3. A general description of the products or services that will be sold by the itinerant vendor.

4. A statement that the applicant shall establish the following controls over itinerant vendors and shall maintain records concerning each itinerant vendor for one year after the engagement dates involving the itinerant vendors:

a. The applicant shall determine the names and addresses of each salesperson involved locally for an itinerant vendor and determine the names and permanent addresses of the parent company, if any, controlling the itinerant vendor.

b. The applicant shall determine the nature of the merchandise or product to be sold, determine whether it is a "reject" line or seconds, determine whether there are warranties of the product, and how any complaint is to be filed for warranty adjustment. The applicant shall require that the vendor display a sign prominent

enough to disclose to all potential customers that the product consists of seconds, rejects or irregulars if such is the case.

c. The applicant shall inform each vendor of the requirement to pay state and town sales taxes and shall forward the name, product involved, and dates of the vendor's engagement to the local office of the state tax commission. Further, the applicant will furnish the vendor with one copy of the state sales tax report form and require him to certify that he will submit a sales tax report at the conclusion of his engagement in the town.

d. The applicant shall post proof of liability insurance policy in effect in amount of twenty five thousand dollars (\$25,000.00).

e. The applicant shall provide copies of all ordinances, regulations, tax forms, etc., to the itinerant vendor and provide the town with a statement signed by the vendor agreeing to comply with same.

f. The applicant shall post a notice with the town thirty (30) days in advance, listing each itinerant vendor establishing a business. (1999 Code § 9-204)

4-3-5: **INVESTIGATION, APPROVAL OR DISAPPROVAL:**

- A. Investigation: All applications for licensing or registration shall be immediately referred for investigation as to the truth thereof, which investigation shall be conducted within ten (10) business days after the application and fee are deposited with the town.
- B. Approval: If the town finds no past history of the applicant indicating violations of this code and that the application is properly made and truthful, a license shall be issued to the approved applicant upon payment of the fee therefor and the filing of the required bond.
- C. Denial; Appeal: In all matters of denial of the license or registration, the applicant shall be forthwith advised thereof. The applicant shall be advised that an appeal of a denied license may be submitted to the town board of trustees. (1999 Code § 9-205)

4-3-6: **BOND REQUIRED:**

- A. Filing Of Bond: Before any license as provided by this chapter shall be issued, such applicant shall file a bond running to the town. A

person engaging in business as an itinerant vendor shall file a bond in the sum set forth in the bond schedule, secured by the applicant as principal and two (2) sureties upon whom service of process may be made in the state.

B. Conditions Of Bond: All such bonds shall be approved by the town attorney and conditioned that:

1. Applicant shall comply with all of the provisions of the ordinances of the town and the statutes of the state regulating and concerning the sale of goods or wares and merchandise; and

2. Will pay all judgments rendered against the applicant for any violation of the ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deceptive practice by any person transacting such business with such applicant, whether such misrepresentation or deception were made or practiced by the owner or by their service, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Any action on the bond may be brought in the name of the town to the use of the aggrieved person. (1999 Code § 9-206)

4-3-7: **SERVICE OF PROCESS:** Before any license for an itinerant vendor, as herein provided, shall be issued, such applicant shall file with the town an instrument nominating and appointing the town clerk-treasurer his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transaction under the license and the bond given as required by this chapter, or for the performance of the conditions of the bond or for any breach thereof. The instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notices or processes may be made upon the agent and when so made shall be taken and held to be as valid as if personally served on the person applying for the license under this chapter, according to the laws of this state or any other state and waiving all claims or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the town clerk-treasurer, as herein provided, the town clerk-treasurer shall send to the licensee at his last known address, by certified mail, a copy of the notice. (1999 Code § 9-207)

**4-3-8: SALE OF FOODS:**

- A. Compliance With State Requirements: All applicants for license to sell food and merchandise for human or animal consumption shall have their application for license approved in accordance with the applicable state food establishment requirements before the licenses are issued.
- B. Individual License: The sale of food requires an individual license not covered by blanket licenses. (1999 Code § 9-208)

**4-3-9: IDENTIFICATION TAG OR BADGE, DISPLAY:**

- A. At all times, there shall be posted in a conspicuous place upon each:
  - 1. Licensee if an individual;
  - 2. Vehicle or booth used by a licensee; or
  - 3. Building or premises as appropriate for blanket licenses;a badge, tag or card issued by the town as proof of issuance of a license. The card, tag or badge shall state the name of the licensee and the date of expiration of the license.
- B. Blanket licenses shall be displayed and readily available for inspection by the town. (1999 Code § 9-209)

**4-3-10: EXCEPTIONS:**

- A. Exemptions Enumerated: The following are exempt from the license requirements of this chapter:
  - 1. Farmers and truck gardeners from lands owned, cultivated or controlled by them, who offer for sale or sell, or who solicit and sell from house to house, vegetables, butter, eggs and farm products produced and raised by the farmers and truck gardeners from such land or produced thereon.
  - 2. Needy ex-service persons holding a certificate duly issued by a district judge having jurisdiction as provided by law.

- B. Interstate Commerce: Any person who desires to be exempt from the license fees levied under this chapter due to engaging in interstate commerce shall provide sufficient data on transactions and proof to the town to establish the interstate commerce nature of his business and transactions. If the town refuses to issue an interstate commerce exemption for the license fees to a commercial business activity, then the applicant is entitled to a hearing before the town judge. (1999 Code § 9-210)

4-3-11: **PROVISIONS CUMULATIVE; CONFLICTS:**

- A. Cumulative Provisions: The requirements of this chapter are cumulative to any provisions of state law or town ordinances regulating or governing any of the activities licensed herein.
- B. Conflicts: In the case of any conflict between the provisions of this chapter and those of any other town ordinance or state law, the more restrictive requirements shall apply. (1999 Code § 9-211)

4-3-12: **CONSENT OR INVITATION REQUIRED:** In the exercise of the authority conferred upon the town by state law, the practice of going to, in or upon the premises of any private residence in the town by door to door salespersons, solicitors, peddlers and order takers, without the express consent, request or invitation of the owner or the occupant of such private residence, for the purpose of soliciting orders for the purchase or for the sale of goods, wares, or publications or merchandise of any description, or the purpose of peddling, or hawking the same, or for the purpose of soliciting subscriptions thereto, is hereby prohibited. (2013 Code)

4-3-13: **PENALTY:** Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in section 1-4-1 of this code. (1999 Code § 9-212)