

ORDINANCE NO. 3038

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ARDMORE, CHAPTER 4, ENTITLED "ALCOHOLIC BEVERAGES;" ADOPTING DEFINITIONS; AMENDING LICENSURE AND OCCUPATIONAL TAX PERMITS FOR ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES; PROVIDING REGULATIONS FOR LICENSEES; PROHIBITING CERTAIN PERSONAL ACTS AND ACTS BY LICENSEES; PROVIDING FOR CONSISTENCY WITH STATE LAWS AND REGULATIONS; PROVIDING FOR EFFECTIVE DATE OF OCTOBER 1, 2018; PROVIDING FOR ZONING CERTIFICATES, PENALTIES, REPEALER, SAVING CLAUSE, SEVERABILITY, AND CODIFICATION.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF ARDMORE, OKLAHOMA:

Section I: That Chapter 4, of the Code of Ordinances of the City of Ardmore, 2014, is hereby amended to read as follows:

CHAPTER 4 - ALCOHOLIC BEVERAGES

ARTICLE I. - IN GENERAL

Sec. 4-1. - Possession of unauthorized intoxicating beverages prohibited.

It is unlawful for any person to have in their possession or under their control any alcohol of any kind except as authorized by law.

Sec. 4-2. - Loitering on premises where sold.

It is unlawful for any person to loiter in any place where alcohol of any kind is bartered, sold, given away or otherwise furnished contrary to law.

Sec. 4-3. - Keeping, maintaining place of sale in violation of laws.

It is unlawful for any person to keep, maintain or aid or abet in keeping or maintaining, in the city a place where alcohol is manufactured, sold, bartered, given away or otherwise furnished in violation of the ordinances of the city.

Sec. 4-4. - Transporting alcoholic beverages in vehicle.

(a) It shall be unlawful for any person to knowingly transport in any vehicle upon a public highway, street or alley within the corporate limits of the City of Ardmore, Oklahoma, 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 open container be in the rear trunk or rear compartment, or any outside

compartment which is not accessible to the driver or any other person in said vehicle while it is in motion.

(b) Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500.00).

Sec. 4-5. - Employees of licensed establishments not to solicit patrons to purchase beverages for employees.

It shall be unlawful for any licensee, owner, manager, or employee of any business or establishment licensed pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act contained in Title 37A O.S. 2017, as amended, to permit an employee to solicit a patron to purchase an alcoholic or nonalcoholic beverage for the employee or any other employee, or knowingly serving any employee with a beverage purchased by a patron or permitting any employee to remain on the licensed premises who solicits a patron to purchase a beverage for any employee or who solicits a patron to purchase a beverage for himself or herself or for any person not a patron, or permitting an employee to mingle or fraternize with patrons of such licensed business or establishment, except in the furtherance of service of food and/or drinks.

Any licensee, owner, manager, or employee of a licensed business or establishment who violates any provision of this section is guilty of an offense, and upon conviction thereof shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00), excluding costs.

Sec. 4-6. - Nudity in licensed business or establishment.

No owner, operator, partner, manager or person having supervisory control of any establishment licensed to sell or serve intoxicating beverages shall permit any of the following on or about any commercial premises where intoxicating 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.

Sec. 4-7. - Certificate of zoning and certificate of compliance with fire, safety and health codes.

(a) Requirement of Certificate. Every applicant for an original or renewal license, as required under Title 37 of the Oklahoma Statutes, except applicants for a special event, shall be required to

furnish the Alcoholic Beverage Laws Enforcement Commission a certificate of compliance with zoning, fire, safety and health codes.

(b) Application and Fee. Applications for such certificates shall be in writing on a form provided by the Department of Community Development. Each applicant shall pay at the time of filing the application a fee as established in Chapter 27 of the Code of Ordinances of the City of Ardmore, Oklahoma. Upon receipt of an application for a certificate of compliance, the Director of Community Development 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 Director of Community Development shall act on all such applications within twenty (20) days of receipt thereof.

Sec. 4-8. - 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 applicant.

(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 applicant.

(c) The above certificates of compliance shall be signed by the Director of Community Development or the Director's designee.

Sec. 4-9. – Prohibited acts by persons.

It shall be unlawful for any person to:

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 package store, grocery store, convenience store or drug store, unless otherwise permitted by law;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;
5. Receive, possess or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;
6. Transport into, within or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by

military personnel, age twenty-one (21) or older, when entering Oklahoma from temporary active assignment outside the contiguous United States;

7. 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 the vehicle while it is in motion;

8. Consume spirits in public except on the premises of a licensee of the ABLE Commission who is authorized to sell or serve spirits by the individual drink, or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by a law enforcement officer or an employee of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county or municipal officer or employee of the ABLE Commission;

10. 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 the ABLE Commission;

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

12. 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 the ABLE Commission; or

13. Knowingly and willfully permit any individual under twenty-one (21) years of age who is an invitee to the person's residence, any building, structure or room owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage as defined by Section 4-11 of this Chapter, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

14. No person who shall engage in any of the following and disturb the peace of any person:

a. In any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by this act, intoxicating substance or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance;

b. Be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxicating substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance; or

- c. Be drunk or intoxicated from any cause.

Sec. 4-10. – Prohibited acts by licensees.

It shall be unlawful for any licensee of the ABLE Commission within the corporate limits of the City of Ardmore, Oklahoma to:

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 the licensee holds;
2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:
 - a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and
 - b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any employee of the ABLE Commission or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform 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. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages, including but not limited to:
 - a. deliver more than two 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 that is less than six percent (6%) below the markup of the cost to the mixed beverage licensee; provided, a mixed beverage licensee shall be permitted to offer these drink specials on any particular hour of any particular day and shall not be required to offer these drink specials for an entire calendar week or from open to close,
 - 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 or portion thereof 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, 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 an employee of the caterer;

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission; or

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises.

8. Furnish alcoholic beverages to any person during any hours or days not authorized under the Alcoholic Beverage Control Act.

Sec. 4-11. – Penalty.

Except as otherwise provided by state law, whenever in this Chapter an act is prohibited or is made or declared to be unlawful, an offense, or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine not exceeding \$500, plus costs. Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.

Sec. 4-12. – Definitions.

1. "ABLE Commission" or "Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

5. "Beer" means any beverage of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

6. "Beer keg" means any manufacturer-sealed, single container that contains not less than four (4) gallons of beer;

7. "Beer distributor" means and includes any person licensed to distribute beer for retail sale in the state, but does not include a holder of a small brewer self-distribution license or brewpub self-distribution license. The term "distributor", as used in this act, shall be construed to refer to a beer distributor;
8. "Brewer" means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer upon which a license fee and a tax are imposed by any law of this state;
9. "Brewpub" means a licensed establishment operated on the premises of, or on premises located contiguous to, a small brewer, that prepares and serves food and beverages, including alcoholic beverages, for on-premises consumption;
10. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;
11. "Convicted" and "conviction" mean and include a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof;
12. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort or wash, has also in his or her possession or use a still;
13. "Drug store" means a person primarily engaged in retailing prescription and nonprescription drugs and medicines;
14. "Grocery store" means a person primarily engaged in retailing a general line of food, such as canned or frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish and poultry;
15. "Hotel" or "motel" means an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;
16. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;
17. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;
18. "Manufacturer" means a brewer, distiller, winemaker, rectifier or bottler of any alcoholic beverage and its subsidiaries, affiliates and parent companies;
19. "Manufacturer's agent" means a salaried or commissioned salesperson who is the agent authorized to act on behalf of the manufacturer or nonresident seller in the state;
20. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals";
21. "Mini-bar" means a closed container, either refrigerated in whole or in part, or nonrefrigerated, and access to the interior of which is:
 - a. restricted by means of a locking device which requires the use of a key, magnetic card or similar device, or
 - b. controlled at all times by the licensee;
22. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license;

23. "Motion picture theater" means an establishment which is licensed by Section 2-110 of this title to sell alcoholic beverages by the individual drink and where motion pictures are exhibited, and to which the general public is admitted;
24. "Nonresident seller" means any person licensed pursuant to Section 2-135 of this title;
25. "Retail salesperson" means a salesperson soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;
26. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, wholesalers, beer distributors, retailers, mixed beverage licensees, on-premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees;
27. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer;
28. "Package store" means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premise consumption and that is not a grocery store, convenience store or drug store, or other retail outlet that is not permitted to sell wine or beer for off-premise consumption;
29. "Patron" means any person, customer or visitor who is not employed by a licensee or who is not a licensee;
30. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;
31. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:
- a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or
 - b. allowing the services of a caterer serving alcoholic beverages provided by a private party.
- This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;
32. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;
33. "Public event" means any event that can be attended by the general public;
34. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;
35. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;
36. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms;
37. "Retailer" means a package store, grocery store, convenience store or drug store licensed to sell alcoholic beverages for off-premise consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License;
38. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "sale" is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;
39. "Special event" means an entertainment, recreation or marketing event that occurs at a single location on an irregular basis and at which alcoholic beverages are sold;

40. "Spirits" means any beverage other than wine or beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

41. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used in this act, shall be construed to refer to a wine and spirits wholesaler; and

42. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine.

The definitions contained within the Oklahoma Alcoholic Beverage Control Act are incorporated into this ordinance by reference. Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

Sec. 4-13. - Reserved.

ARTICLE II. - OCCUPATIONAL TAX FOR WINE, BEER AND MIXED BEVERAGE SALES FOR ON PREMISES CONSUMPTION

Sec. 4-14. – Occupational tax levied.

No person shall operate or maintain any business serving mixed beverages or beer or wine without having previously paid the occupational tax as provided in Chapter 27.

Sec. 4-15. - Payment required and penalty.

(a) Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of Community Development on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of a current state license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April now and through September 30, 2019. Effective October 1, 2019, the licensee shall pay the tax annually on or before the first day of November.

(b) The occupation tax subject to this section shall be prorated on a monthly basis for the year in which an occupation began operations.

(c) Upon payment of the said occupation tax, the Director of Community Development shall issue a receipt to said state licensee, which said licensee shall post in a conspicuous place on the occupation premises.

(d) Any person who engages in any of the occupations taxed by this article without paying said occupation tax imposed therefor in advance of such operation, is guilty of an offense against the city, and upon conviction thereof shall be fined the sum of not more than five hundred dollars (\$500.00), excluding costs. Each day of such violation shall constitute a separate offense.

Sec. 4-16. - Annual report.

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

Sec. 4-17. – Hours of operation.

No establishment to which the mixed beverage or on premises beer and wine occupational tax is applicable, nor any agent, servant or employee of such establishment shall sell, dispense, serve or allow to be consumed any mixed beverages, beer or wine on the premises between the hours of 2:00 am and 6:00 am.

Sec. 4-18. – Employment.

No person shall employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

- (a) a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and
- (b) a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal guardian or has in their person, to be made available for inspection upon demand by any employee of the ABLE Commission or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas.

Sec. 4-19. – Mixed beverage/caterer combination license.

A mixed beverage/caterer combination license shall authorize the holder thereof to purchase or sell mixed beverages as specifically by law for the holder of a mixed beverage license or a caterer license.

Sec. 4-20. – Special event temporary license.

A special event temporary license may be issued to an organization, association, or nonprofit corporation organized for political, fraternal, charitable, religious or social purposes. The holder of a special event temporary license is authorized to sell and distribute alcoholic beverage on the premise for which the license is issued. No special event temporary license shall be valid for a period not to exceed ten (10) consecutive days and no qualified organization may obtain more than one (1) such license in a 90-day period. Prior to obtaining the City's approval, a special event license must be issued by the Alcoholic Beverage Laws Enforcement Commission.

Sec. 4-21. – Breweries and Brewpubs.

- (a) No person shall operate or maintain a brewery or brewpub without having previously paid the occupational tax as provided in Chapter 27.
- (b) No brewery or brewpub to which the brewery or brewpub occupational tax is applicable, nor any agent, servant or employee of such establishment shall sell, dispense, serve or allow to be consumed any beer, as that term is defined in 37A § 1-103(5), on the premises between the hours of 2:00 am and 8:00 am.

Secs. 4-22-4-34. - Reserved.

ARTICLE III. - RETAIL SPIRITS STORES AND RETAIL STORES SELLING WINE OR BEER FOR OFF PREMISES CONSUMPTION

Sec. 4-35. – Occupational tax levied.

No person shall operate, manage, or work in any retail establishment that sells, for off premises consumption only, any type of alcoholic beverage, as that term is found in 37A § 1-103 without having previously paid the occupational tax as provide in Chapter 27.

Sec. 4-36. - Payment required and penalty.

(a) Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of Community Development on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of a current state license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April now and through October 31, 2019. Effective November 1, 2019, the licensee shall pay the tax annually on or before the first day of November.

(b) The occupation tax subject to this section shall be prorated on a monthly basis for the year in which an occupation began operations.

(c) Upon payment of the said occupation tax, the Director of Community Development shall issue a receipt to said state licensee, which said licensee shall post in a conspicuous place on the occupation premises.

(d) Any person who engages in any of the occupations taxed by this article without paying said occupation tax imposed therefor in advance of such operation, is guilty of an offense against the city, and upon conviction thereof shall be fined the sum of not more than five hundred dollars (\$500.00), excluding costs. Each day of such violation shall constitute a separate offense.

Sec. 4-36.1. - Deliveries.

No wholesale dealer in alcoholic beverages shall sell or deliver to any retail spirits store any alcoholic beverages on Sundays, New Year's Day, Fourth of July, Thanksgiving, or Christmas Day.

Sec. 4-37. - Duty of operators and prohibited conduct on sales premises.

It is hereby declared unlawful for any person operating any retail establishment that sells, for off premises consumption only, any type of alcoholic beverage, to permit any person under the age of twenty-one (21) years to loiter in or be in such a place, or to permit any intoxicated person to loaf or loiter or be in or about said place of business, or to permit any person to violate any of the law of the state.

Sec. 4-38. - Hours of operation.

(a) Retail spirit stores. No retail spirits store may sell any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and midnight Monday through Saturday. Further, no person shall open or operate a retail spirits store on the following days:

- (1) Thanksgiving Day
- (2) Christmas Day

(b) Retail beer or retail wine stores. A retail wine or retail beer establishment may offer wine or beer for sale on Monday through Sunday between the hours of 7:00 a.m. and 2:00 a.m. the following day, Monday through Sunday.

Sec. 4-39. - Employment.

No person shall employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits.

Sec. 4-40. - Revocation of license.

If any person having a license as provided for herein, shall be convicted more than once of a violation of the terms hereof, said license may be revoked as provided in the Alcoholic Beverage Control Act.

Sec. 4-41. - Enforcement.

The Ardmore Police Department is authorized and empowered to enforce the provisions of this Act. The provisions shall be enforced in a manner that can reasonably be expected to reduce the extent to which alcohol is sold or distributed to persons under twenty-one (21) years of age.

(1) Persons under twenty-one (21) years of age may be enlisted by the Ardmore Police Department to assist in enforcement. Provided, however, that such persons may be used to test compliance only if the testing is conducted under the direct supervision of the Ardmore Police Department; provided, written parental consent shall be obtained prior to the use of any person under the age of eighteen (18) years. Any other use of persons under twenty-one (21) years of age to test compliance shall be unlawful and punishable by assessment of an administrative fine of five hundred dollars (\$500.00).

Secs. 4-42—4-50. - Reserved.

Section II: Repealer. All ordinances or parts thereof, which are inconsistent with this Ordinance are hereby repealed.

Section III: Savings Clause. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action accrued of 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.

Section IV: Severability. If any one or more of the sections, sentences, clauses, or parts of this Ordinance shall, for any reason, be held invalid, the invalidity of such section, sentence, 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 Board of Commissioners of the City of Ardmore that this section of the Code of Ordinances for the City of Ardmore, Oklahoma, 2014, would have been adopted had such unconstitutional, illegal, or otherwise invalid section, sentence, clause, or part had not been included.

Section V: Codification. This Ordinance shall be codified as Chapter 4 of the Code of Ordinances for the City of Ardmore, Oklahoma, 2014.

The undersigned hereby certify that the foregoing ordinance was introduced before the Ardmore City Commission on the 20th day of August, 2018, and was duly adopted and approved by the Mayor and City Commission of the City of Ardmore on the 20th day of August, 2018, after compliance with notice requirements of the Oklahoma Open Meeting Law.

CITY OF ARDMORE

A MUNICIPAL CORPORATION

Sheryl Ellis, Mayor

ATTEST:

Ken Campbell, City Clerk