**ORDINANCENO.dOl 'l>- Ci-).**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF HARTSHORNE, OKLAHOMA, AMENDING CHAPTER 2, ARfICLE 1, SECTIONS BY REPEALING SECTIONS 2-2,2-5, 2-6, 2-7, 2-8, 2-9, AND REPLACING WITH NEW LANGUAGE** IN

**SECTION 2-2; 2-6; 2-7; 2-8; 2-9 AND APPROVING NEW SECTIONS 2-11; 2-12; 2-13; 2-**

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**14; 2-15 AND 2-16. REPEALffiG ARI'ICLE 2 AS IT**

**RELATES TO NON-INTOXICTING BEVERAGES AS OF OCTOBER 1, 2018; ALL** IN **CHAPTER 2 OF THE CODE OF THE CITY OF HARTSHORNE, OKLAHOMA CON ERNING LICENSURE AND OCCUPATIONAL TAX PERMITS FOR ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES AND cbNSISTENCY WITH STATE LAWS AND REGULATIONS EFFECTIVE OCTOBER 1, 2018; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARTSHORNE, OKLAHOMA:**

That Article 1, Section 2-2 of Chapter 2 of the Code of the City of Hartshorne shall be amended to read as follows:

**SECTION 2-2:** Fee schedules for license and permits and occupational taxes.

1. The fee schedule, hereinafter set foJ h, shall be levied and collected by the Clerk, or the Clerk's representatives, for the applicable license, fees, permits, or occupational tax levies, prior to the issuance of any such license permit or cbnductingof the business of serving alcoholic beverages.
2. Occupational Taxes relating to the sale of Alcoholic beverages (definitions in 37
3. S § 506 through September 30, 2018, and fourld in 37A § 1-103 thereafter) are set forth as follows:

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| 1. Brewer, per year | $1,000.00 |
| 2. Brewpub, per year | $1,000.00 |
| 3. Distiller, per year | $ 35.00 |
| 4. Retail spirits store | $ 305.00 |
| 5. Mixed beverages, first year | $1,000.00 |
| Renewal, per year | $ 900.00 |
| 6. On premises beer or wine, first year | $ 500.00 |
| Renewal, per year | $ 450.00 |
| 7. Mixed beverage/caterer combination | $1,250.00 |
| Renewal, per year | $1,250.00 |
| 8. Rectifier, per year | $2,500.00 |
| 9. Class I beer license (only through 9-30, 2018) | $ 20.00 |
| 10. Winemaker, per year | $ 500.00 |
| 11. Winemaker, Oklahoma, per year | $ 50.00 |

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* 1. Wholesaler, 10-1-2018, Wine and Spirits

Wholesaler, per year

$2,000.00

* 1. Wholesaler, Class B, effective 10-1-2018 I $ 500.00 Beer Distributer

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14. Retail beer (10-1-2018) $ 500.00

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15. Retail wme (10-1-2018) $1,000.00

Sections B, C & D of Section 2-2 of Article 1 are hereby repealed.

**Section 2-5** Mixed beverage establishment,J eer and wine establishment or retail package Store Location is amended as follows:

1. It shall be unlawful for any mixed beverage establishment, beer and wine establishment or bottle club which has been licensed by the ABLE c J mmission and which has as its main purpose the selling or serving of alcoholic beverages for coJ sumption on the premises, or package store, to be located within three hundred (300) feet of anJ public or private school or church property primarily and regularly used for worship services ahd religious activities; however, a college or university located within an improvement district created pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes may waive the three-hk dred-foot requirement by providing written notice to the establishment seeking the license ahd to the ABLE Commission. Provided, a college or university prior to waiving the three-hundred-foot requirement found in this subsection shall publish a notice of its intention to i aive such requirement in a legal newspaper of general circulation within the state at least thirt (30) days but no more than forty (40) days prior to providing any written notice, waiving the three-hundred-foot requirement, to the establishment seeking the license or to the ABLE,o ommission. As used in this subsection "legal newspaper of general circulation within this state" rneans a newspaper meeting the requisites of a newspaper for publication of legal notices as ptiescri bed in Section 106 of Title 25 of the Oklahoma Statutes in a majority of the counties in tli\.is state.
2. The distance indicated in this section shall be mJ as ured from the nearest property line of such public or private school or church to the nearest berimeter wall of the premises of any such mixed beverage establishment, beer and wine esta}j;lishment, bottle club or package store which has been licensed to sell alcoholic beverages.
3. The provisions of this section shall not apply to:
	1. Mixed beverage establishments, beer and wineIestablishments, or bottle clubs, which have been licensed to sell alcoholic beverages for on-prf mises consumption or retail package stores prior to November 1, 2000; provided, if at the time @f application for license renewal the licensed location has not been in actual operation for a conti uous period of more than sixty (60) days, the license shall not be renewed; or
	2. Establishments licensed prior to October 1, 2018! to sell low-point beer which were permitted

to be located within three hundred (300) feet of ayn public or private school or church property

primarily and regularly used for worship servic(\:s and religious activities, pursuant to the provisions of Section 163.27 of Title 37 of the Okli homa Statutes. Such establishments shall be permitted to have any license in effect on Octob¢r 1, 2018, transferred to a mixed beverage

# license; provided, if such an establishment ceases to regularly be open to the public or changes ownership, the provisions of this paragraph shall cease to apply.

1. If any school or church shall be established within three hundred (300) feet of any package store, mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section after such package store, mixed beverage establishment, beer and wine establishment or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section which has a license to sell alcoholic beverages for on-premises consumption, or package store, changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.
2. 1. Any interested party may protest the application for or granting of a license for a package store, or for a mixed beverage establishment, beer and wine establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, based on an alleged violation of this section. To be considered by the ABLE Commission, the protest must:

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1. be submitted in writing,
2. be signed by the person protesting, 1
3. contain the mailing address and address of residence, if different from the mailing address of the protester,
4. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and
5. contain a concise statement explaining why the application is being protested.
6. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.
7. As used in this subsection, "interested party" means:
	1. a parent or legal guardian whose child or childrde attend the church or school which is alleged

to be closer to the mixed beverage establishment or ottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, than is allowed by this section,

* 1. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, than is allowed by this section, or
	2. an official of a school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the s lling or serving of alcoholic beverages for consumption on the premises.

**Section 2-6** is amended as follows:

# A retailer may offer for sale and sell alcoholic beverages which are packaged or are to be packaged with nonalcoholic promotional items, if such packaging and all nonalcoholic promotional items are provided by the manufacturer or agent of the manufacturer at the expense

of the manufacturer or agent of the manufacturer, regardless of where such packages are assembled.

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# The manufacturer or agent of the manufactmer may provide such packaging and any nonalcoholic promotional items to the retailer at th retailer's premises, or otherwise, and may deliver such packaging and all nonalcoholic promotional items provided by the manufacturer or agent to the retailer by means of common carrier, oi otherwise, at no expense to the retailer, for the retailer to incorporate the alcoholic beverage product of the manufacturer into the manufacturer's packaging or with such promotional ilems.

1. The manufacturers of alcoholic beverages, thr ugh their agents, must make access to the packaging for such alcoholic beverages with nonalcoholic promotional items available equally to retailers in this state. Such access to the promotiJnal packaging is subject to the reasonable supplies of such packaging and subject to the terms J f the manufacturer's promotion. Such access to the manufacturer's packaging by the retailers dhall be commensurate to the needs of the retailers based on the stock of the manufacturer's product carried by the retailer. The manufacturers shall only be required to carry reasonable supplies of such promotional packages and shall make a good faith effort to ratably distribJ te such packaging or items to those retailers who desire such packaging or items.

**Section 2-**7 is amended as follows:

# No alcoholic beverages may be sold, dispensedl, served or consumed on the premises of a mixed beverage, caterer, public event, charitable bvent, special event, on-premises beer and wine, small brewer or brewpub licensee between thejhours of 2:00 a.m. and 8:00 a.m.

1. If the electors of Pittsburg County voted to authorize sales of alcoholic beverages by the individual drink, the City of Hartshorne designates the following days as days or portions thereof on which the sales of alcoholic beverages are not aut orized:
	1. On the first day of the week, commonly called Sunday; and
	2. On Decoration or Memorial Day, Independen, ce Day, Labor Day, Thanksgiving Day and Christmas Day.
2. If the electors of Pittsburg County voted to au1thorize sales of alcoholic beverages by the individual drink, the City of Hartshorne shall not p ohibit such sales on the day of any national, state, county or city election, including primary elections, provided that the election day does not

occur on any day on which such sales may otherwirs be prohibited by any other law.

Section 2-8 is amended I

MIXED BEVERAGE OR BEER AND WINE CERTIFICATE OF COMPLIANCE:

1. A mixed beverage or beer and wine certificate o, f c ompliance, on forms furnished by the City, shall be completed by every applicant for an original license pursuant to the Oklahoma Alcoholic Beverage Control Act.
2. This certificate shall be reviewed and approved by the following City departments:
	1. The applicant's proposed location and use thernof must comply with all municipal zoning ordinances, verified by the Director of Planning and Community Development, or his designee.
	2. The applicant's proposed site and structure musJ comply with all building codes as required by the Code of the City of Hartshorne, verified b the Director of Planning and Community Development, or his designee.
	3. The applicant's proposed site, structure, and ! location must comply with all Fire Code requirements required by the Code of the City of Hartshorne, verified by the Fire Inspector for the City of Hartshorne or his designee.
	4. The applicant's proposed location and use thereof must comply with all provisions regarding food service requirements as required by the Codd of the City of Hartshorne, verified by the Pittsburg County Health Department Inspector or hiJ designee.

**Section 2-9** is amended. ,

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) y! ars of age in the selling of spirits. Provided:

* + 1. a mixed beverage, beer and wine, caterer, publie event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales J1erks who are at least eighteen (18) years of age, except persons under twenty-one (21) years bf age may not serve in designated bar or lounge areas, and
		2. a mixed beverage, beer and wine, caterer, pubIi event, special event or bottle club licensee may employee or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied b a parent or legal guardian or has on their person, to be made available for inspection upofi 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 t9 perform in designated bar or lounge areas.

RETAIL SPIRITS STORES AND RETAIL STo ik s SELLING WINE OR BEER FOR OFF PREMISES CONSUMPTION:

**Sec. 2-11.** - Occupational tax levied.

No person shall operate, manage or work in any r9 tail establishment that sells, for off premises consumption only, any type of alcoholic beverage, as that term is found in 37 O.S. § 506 through September 30, 2018, and as found in 37A § 1-103 thereafter without having previously obtained an occupational tax permit for that store as provide in this chapter.

**Sec. 2-12.** -Retail spirits, retail beer and retail wine1 ce rtificate of compliance.

* + - 1. A retail spirits, retail beer and retail wine certificate of compliance, on forms furnished by the City, shall be completed by every applicant for an original license pursuant to the Oklahoma Alcoholic Beverage Control Act.
			2. This certificate shall be reviewed and approved by the following City departments:
				1. The applicant's proposed location and use thereof must comply with all municipal zoning ordinances, verified by the Director of Planning and Community Development, or his designee.
				2. The applicant's proposed site and structure must comply with all building codes as required by the Code of the City of Hartshorne, verified by the Director of Planning and Community Development, or his designee.
				3. The applicant's proposed site, structure, and location must comply with all Fire Code requirements required by the Code of the City of Hartshorne, verified by the Fire Inspector for the City of Hartshorne or his designee.
				4. The applicant's proposed location and use thereof must comply with all provisions regarding food service requirements as required by the Code of the City of Hartshorne, verified by the Pittsburg County Health Department Inspector or his designee.

**Sec. 2-13.** - 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 Day, or Christmas Day.

**Sec. 2-14.** - Employment. No person shall employ any person under eighteen (18) years of age in the selling of beer or wine or employee any person under twenty-one (21) years of age in the selling of spirits.

**Sec. 2-15** - Hours for selling alcoholic beverages. (a) Retail Spirits Stores. Now and through September 30, 2018, no person shall open or ope ate a retail spirits store except between the hours of 10:00 a.m. and 9:00 p.m. Effective October 1, 2018, retail spirits stores will be permitted to remain open and operational from 8:00 a.m. through midnight. Further, no person shall open or operate a retail spirits store at any time on the following days: (1) Sunday; (2) July 4, 2018; (3) September 3, 2018; (4) Thanksgiving Day; or (5) Christmas Day. (b) Retail beer or retail wine stores. Effective October 1, 2018, a retail wine or retail beer establishment may offer wine or beer for retail sale on Monday through suAday between the hours of 6:00 a.m. and 2:00

a.m. the following day.

**Sec. 2-16.** - Signs. No person shall erect or maintain any sign designating a retail liquor store

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unless they comply with the "City of Hartshorne Sign Code" which has been codified as chapter

18 of the Code of the City of Hartshorne, Oklahomt

WHEREAS it is acknowledged that qualif'ied retail spirits, wine and spirits wholesaler, beer distributer, retail beer, and retail wine state licensees are permitted to perform interim activities that will be permissible under these lic6nses as fully effective on October 1, 2018, except for the actual sale of wine and beer to the pbblic. These interim activities include, but are not limited to, the purchasing, stocking, and storing of wine and/or beer on the licensed premises.

In order to qualify for these interim activities, the state licensee must satisfy all the requirements set forth in Article XX:VIIIA of the Oklahoma Constitution and state law.

SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED **thiso(l(t<A** day of September,

NOT ADOPTED this

day of, 2018.

JOY CLINE, Mayor September, 2018, JOY CLINE, Mayor

ATTEST D

LISA BROWN, CITY CLERK

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