

ORDINANCE NO. 908

AN ORDINANCE ON THE REVOCATION OF PERMITS
FOR THE SALE OF LOW POINT BEER

Whereas, it is a violation of 37 O.S. § 163.2 and of 4-2-3 of the Clinton City Code for any person under the age of 21 to consume, possess, purchase or attempt to purchase low-point beer;

Whereas, 4-2C-3 of the Clinton City Code imposes liability, for the actions of employees, upon the holder of a city permit for the sale of low point beer;

Now therefore, be it ordained by the City Council of the City of Clinton, Oklahoma:

A. Any license issued pursuant to the provisions of Clinton, City Code Title 4 Chapter 2, by order of the City Manager, after due notice and hearing, may be revoked or suspended if the City Manager finds or has grounds to believe that the licensee has:

1. Violated 37 O.S. § 163.2, 4-2-3 of the Clinton City Code, 4-2C-3 of the Clinton City Code;
2. Had any permit or license issued by the Oklahoma Tax Commission and required by the Oklahoma Alcoholic Beverage Control Act, suspended or revoked by the Tax Commission;

B. Definitions.

Owner: Any person(s), partnership, limited liability company, or corporation of whatsoever nature that owns, controls, manages, or oversees the operations of any establishment that sells low point beer or other intoxicating beverages as a part of the goods or products sold and/or distributed in any manner provided for by a permit issued by the City of Clinton.

Employee: Any person that has the responsibility of taking monies, credit card transactions, personal checks, or personal credit transactions for the sale or exchange of goods or products to include low point beer and other intoxicating beverages.

C. The licensee shall have the right to appeal a determination of the City Manager, in Subsection A, to the District Court within 10 days. If the District Court shall find by a preponderance of the evidence as in civil cases that the holder of a license has knowingly sold any alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing it shall revoke said license and no discretion as to said revocation shall be exercised by the District Court.

D. Penalties.

1. First Violation by Owner and Employee
 - a. Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - b. Owner
 - Official Warning put on Record of the Municipal Court
 - c. Owner Acting as Employee
 - Punishable as provided in Section 1-4-1 of this Code with Official Warning put on Record of the Court
 - d. Employee and Owner meet with the City Manager within 24 hours of Court Appearance

2. First Violation by Owner and Second by Employee Within 24 Months
 - a. Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - b. Owner
 - Official Warning put on Record of the Court
 - c. Owner Acting as Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - Two week suspension of City Permit by City Manager
 - d. Employee and Owner meet with the City Manager within 24 hours of Court Appearance

3. Second Violation Within 24 Months
 - a. Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - b. Owner
 - Punishable as provided in Section 1-4-1 of this Code
 - One month suspension of City Permit by City Manager
 - Notification to County Clerk and the ABLE Commission
 - c. Owner Acting as Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - One month suspension of City Permit by City Manager
 - Notification to County Clerk and the ABLE Commission

4. Third Violation Within 24 Months*
 - a. Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - b. Owner
 - Punishable as provided in Section 1-4-1 of this Code
 - Three month suspension of City Permit by City Manager
 - Notification to County Clerk and the ABLE Commission
 - c. Owner Acting as Employee
 - Fine and/or jail sentence as set by City Judge

- Three month suspension of City Permit by City Manager
- *New 24 month period started
- Notification to County Clerk and the ABLE Commission of habitual violations

5. Fourth Violation

- a. Employee
 - Punishable as provided in Section 1-4-1 of this Code
- b. Owner
 - Punishable as provided in Section 1-4-1 of this Code
 - Revocation of City Permit by City Manager
 - Notification to County Clerk and the ABLE Commission of permanent revocation
- c. Owner Acting as Employee
 - Punishable as provided in Section 1-4-1 of this Code
 - Revocation of City Permit by City Manager
 - Notification of the County Clerk and ABLE Commission of permanent revocation

E. The failure of any licensee to pay a fine or serve a suspension imposed by the ABLE Commission shall result in the revocation of the license of said licensee.

F. If the City Council finds that public health, safety or welfare require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceeding for revocation or other action, pursuant to the provisions of Section 314 of Title 75 of the Oklahoma Statutes.

Passed and approved this _____ day of _____, 2008.

Mayor

ATTEST:

City Clerk