

**ORDINANCE NO. 4055-A**

**AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES BY AMENDING CHAPTER 10, ALCOHOLIC BEVERAGES; ARTICLE I, IN GENERAL, SECTION 10-2, OCCUPATION TAX-LEVIED; CREATING ADDITIONAL CATEGORIES IN ACCORDANCE WITH THE OKLAHOMA ALCOHOLIC BEVERAGE CONTROL ACT; PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.**

**AN EMERGENCY ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:**

Section 1. Section 10-2, Occupational Tax-Levied, of Article I, in General, within Chapter 10, Alcoholic Beverages is hereby amended as follows:

SEC. 10-2. - OCCUPATION TAX—LEVIED.

- (a) There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically enumerated pursuant to the provisions of 37A O.S. §4-104, in the amount set forth in Schedule A to the City of Muskogee Code of Ordinance. All terms, definitions and meanings upon which categories said occupation tax is levied shall be those provided for in 37A O.S. §1-103, as may be amended from time to time.
- (b) The occupation tax shall be levied only if the licensee's principal place of business is located in the city.
- (c) Any state licensee originally entering upon any occupation listed in this section shall pay the tax therefor to the city clerk before engaging in such occupation or before a licensee sells or offers for sale any alcoholic beverages. All licenses, except as otherwise provided, shall be valid for one year from date of issuance unless revoked or surrendered. Thereafter, such licensee shall pay the tax annually on or before the expiration date of the license.
- (d) Any state licensee carrying on his occupation in more than one location in the corporate limits of the city shall be subject to the tax specified in this section for each location.
- (e) The occupation taxes prescribed in this section shall be reduced to the extent necessary to conform to applicable state law reducing the state license fee to such person, but only to such extent as may be required to conform to applicable state law, it being the intention that this chapter shall levy the maximum tax allowable for the occupations on which there is hereby levied an occupation tax.
- (f) Upon payment of the occupation tax, the city clerk shall issue a receipt, signed by the city clerk, to the state licensee paying such occupation tax. The city clerk 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 city for at least five years. Thereafter, upon resolution by the council, it may be destroyed.

(g) Any state licensee shall post his tax receipt in a conspicuous place on the premises wherein he carries on his occupation.

(h) Nonpayment of tax; court action.

(1) All sums due from any person by reason of occupation taxes imposed by this chapter and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable at the suit of the city brought against such person in any court of competent jurisdiction.

(2) In any such suit, in addition to the tax and penalties, the plaintiff shall recover the statutory interest 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 a reasonable attorney's fee, which shall be paid to the attorney representing the plaintiff in the suit, all to be determined by the court.

(3) Prosecution for an offense against the city, arising out of the failure to pay a tax levied by this chapter, regardless of the outcome thereof or of its continued pendency, shall not constitute a defense or a bar in any manner to the collection of the tax and penalties, if any are due, as herein provided.

(i) The city shall make an annual report to the ABLE commission, covering the fiscal year, showing the number and class of licensees subject to said tax, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE commission submitted to the governor, and transmitted to the legislature.

Section 2. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 3. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 4. EMERGENCY. This ordinance being designated to protect the public health, safety and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE,  
OKLAHOMA, THIS \_\_\_\_ DAY OF SEPTEMBER, 2018.

CITY OF MUSKOGEE

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JOHN R. COBURN, MAYOR

ATTEST:

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TAMMY L. TRACY, CITY CLERK

(seal)

Approved as to form and legality this 6TH day of SEPTEMBER, 2018.

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ROY TUCKER, CITY ATTORNEY