

YALE CITY CODE

Chapter 2

ALCOHOLIC BEVERAGES

Article 1. Alcoholic Beverages in General

Sec. 2-1. Definitions.

The following words, terms and phrases, when used in this chapter and not defined to the contrary herein shall be interpreted and construed in accordance with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Act, codified at Title 37A, Oklahoma State Statutes or regulations promulgated by the ABLE Commission with the same force and effect as if set forth in full herein.

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 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 or 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 and 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. “Brand” means any word, name, group of letters, symbol or combination thereof, that is adopted and used by a licensed brewer to identify a specific beer, wine or spirit and to distinguish that product from another beer, wine or spirit.

6. “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

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sake, known as Japanese rice wine, pursuant to the provisions of title 37A, Section 1-103 (5) of the Oklahoma Statutes.

7. “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.

8. “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.

9. “Caterer” means any person authorized to sell mixed beverages for on premises consumption incidental to the sale or distribution of food and who is required to have a caterer’s license from the ABLE Commission.

10. “Cider” means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors.

11. “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.

12. “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.

13. “Designated wholesaler” means a wine and spirits wholesaler who has been selected by a manufacturer as a wholesaler appointed to distribute designated products.

14. “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 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 possession or use a still.

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15. "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.

16. "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.

17. "Licensee" means an 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 on the licensed premises.

18. "Manufacturer" means brewer, distiller, winemaker, rectifier, or bottler of any alcoholic beverage and its subsidiaries, affiliates and parent companies.

19. "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.

20. "Mixed Beverages" means one or more servings of a beverage composed in whole or in 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, caterer, beer and wine, public event, charitable event or special event license.

21. "Mixed Beverage Cooler" means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include but not be limited to the beverage known as a "wine cooler."

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22. "Owner" means any officer, owner, manager or other person who shall receive any percentage of profits directly from the operation of a tavern or directs any policy of a tavern.

23. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business or manufacturers, wholesalers, beer distributors, retailers, mixed beverage licensees, on premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees.

24. "Original Package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer.

25. "Package Store" means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off premises 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 premises consumption.

26. "Patron" means any person, customer or visitor who is not employed by a licensee or who is not a licensee.

27. "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 the 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 violation of the Oklahoma Alcoholic Beverage Control Act or the provisions of the Yale City Code occurring on the licensed premises.

28. "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.

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For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event.

29. "Public Event" means any event that can be attended by the general public.

30. "Rectifier" means any person who rectifies, purifies, or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash, or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying, or refining spirits shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine, or other liquor with any material, manufactures any spurious, imitation, or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials, or any other name.

31. "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.

32. "Retailer" 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.

33. "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 agent, servant or employee. The term sale also declared to be and include the use or consumption in the State of Oklahoma of any alcoholic beverage obtained within or imported from with the state, upon which the excise tax levied by the Oklahoma alcoholic Beverage Control Act has been paid or exempted.

34. "Small Brewer" means a brewer who manufactures less than twenty-five thousand (25,000) barrels of beer annually pursuant to a validly issued Small Brewer License hereunder.

35. "Small farm wine" means a wine that is produced by a small farm winery with seventy five percent (75%) or more Oklahoma grown grapes, berries, other fruits, honey or vegetables.

36. "Small farm winery" means a wine making establishment that does not annually produce for sale more than fifteen thousand (15,000) gallons of wine as reported on the United

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States Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations.

37. "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.

38. "Spirits" means any beverage other than wine, beer or light beer, which contains more than one half of the one percent 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.

39. "State 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.

40. "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 of Oklahoma. The term "wholesaler" as used herein shall be construed to refer to a wine and spirits wholesaler.

41. "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 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. (ORD. NO. 404)

Sec. 2-2. Unlawful sale, manufacture and possession.

(a) It shall be unlawful for any person to manufacture, rectify, barter, sell, give away, or otherwise furnish another any alcoholic beverages except as permitted by the Yale City Code and the Statutes of the State of Oklahoma.

(b) It shall be unlawful for any person to store, or have in his possession or under his control any alcoholic beverage except as permitted by law.

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(c) It shall be unlawful for any person to transport or in any manner convey from place to place any alcoholic beverage except as permitted by law.

(d) It shall be unlawful for any person to keep or maintain, aid or abet in keeping or maintaining a place where alcoholic beverages are manufactured, sold, bartered, or given away or otherwise furnished in violation of the Yale City Code or the Statutes of the State of Oklahoma.

(e) Nothing contained herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor, his family or guests, so long as the state excise tax has been paid thereon, except for beer, nor prevent the making of cider or of wine not to exceed 200 gallons in any one year pursuant to a license having been obtained from the ABLE Commission, if made solely for the use of the maker, his family or guests.

Sec. 2-3. Maintaining a place or location where alcoholic beverages are sold contrary to law.

It is unlawful for any person or any agent or employee thereof, to keep, maintain, or aid or abet in keeping or maintaining a place where alcoholic beverages are manufactured, sold, bartered, given away, or otherwise furnished in violation of the Yale City Code or the Statutes of the State of Oklahoma.

Sec. 2-4. Location of package stores and mixed beverage establishments, location of gatherings.

(a) No person, firm or corporation shall own, operate, maintain or be interested in any retail package store or beer and wine or mixed beverage establishment which is located at a place within the City of Yale which is forbidden as a location for such store by the Statutes of the State of Oklahoma or the City Code of the City of Yale

(b) No person, firm or corporation shall knowingly and willfully hold, permit to be held or in any manner assist in the holding of any public event, private event or gathering on any public property or on any land which is located at a place within the City of Yale which is forbidden as a location for such public event, private event or gathering by the Statutes of the State of Oklahoma or the City Code of the City of Yale.

(c) The City of Yale shall permit the sale of beer, wine, or alcohol at special events as defined herein provided that the sponsor of such special event shall obtain in advance a special

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event license from the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission. A permit shall be required from the City of Yale a special event within the City, such application to hold a special event shall contain the following information:

- 1) The name of the event organizer or sponsor
- 2) Address and telephone number of event organizer or sponsor
- 3) Date of the special event
- 4) Address of the special event
- 5) Name and address of the owner of the property where such special event is to be held
- 6) A permit fee of \$10.00

Such application must be received more than ten days prior to the date of the special event.

Sec. 2-5. Hours of Operation.

(a) No package store, or the premises upon which it is located, shall be open for the purpose of selling any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 12:00 a.m. (midnight) Monday through Saturday. No sales shall be made nor shall package store premises remain open for the purpose of making sales or receiving deliveries of alcoholic beverages on Thanksgiving Day or Christmas Day.

(b) No holder of a Retail Wine License or a Retail Beer License shall sell any beer or wine at any hour other than between the hours of 7:00 a.m. and 2:00 a.m. the following day, Monday through Sunday.

(c) No establishment to which the mixed beverage or on premises beer and wine occupational tax is applicable, or 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 a.m. and 8:00 a.m.

(d) No brewery or brewpub to which the brewer 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 the term is defined by Title 37A, Section 1-103 (5) on the premises between the hours of 2:00 a.m. and 8:00 a.m. (ORD. NO. 404)

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Sec. 2-6. Underage persons not permitted in package stores or licensed premises.

(a) No licensee, operator or employee shall permit any person under the age of twenty-one (21) years of age to enter into, remain within or loiter upon or about the premises of any package store or place where alcoholic beverages may be sold, dispensed or served for consumption on the premises except as authorized by the Statutes of the State of Oklahoma.

(b) No person under the age of twenty-one (21) years of age shall enter, remain within or loiter upon or about the premises of any package store or place where alcoholic beverages may be sold, dispensed or served for consumption on the premises except as authorized by the Statutes of the State of Oklahoma.

It is unlawful for any person or any agent or employee thereof, to keep, maintain, or aid or abet in keeping or maintaining a place where alcoholic beverages are manufactured, sold, bartered, given away, or otherwise furnished in violation of the Yale City Code or the Statutes of the State of Oklahoma.

Sec. 2-7. Employment.

No person shall employ any person under the age of 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 other than as follows:

(1) A mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ server or salesclerks 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.

(2) 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 accompanied by a parent or legal guardian or has on their person a written authorized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas. (ORD. NO. 404)

Sec. 2-8. Possession by underage persons.

No person under the age of twenty one (21) years of age shall be in possession of any alcoholic beverage.

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Sec. 2-9. Underage persons not to misrepresent age.

No person under the age of twenty one (21) years of age shall misrepresent his or her age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him or her alcoholic beverages or to enter or attempt to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission.

Sec. 2-10. Containers not to be opened or beverages consumed in package stores.

(a) No state package store licensee, employee or agent shall allow or permit any retail container to be opened, or any alcoholic beverage to be consumed on such licensed premises.

(b) No person shall drink nor consume in any manner alcoholic beverages on the premises of a retail package store, nor shall any person open or break the seal of an original package or retail container containing alcoholic beverages on such premises.

Sec. 2-11. Loitering where alcoholic beverages are sold.

It shall be unlawful for any person to loiter in any place where alcoholic beverages are bartered, sold, given away, or otherwise furnished.

Sec. 2-12. Public intoxication.

It shall be unlawful for any person to be intoxicated in any public street, alley or other public place.

Sec. 2-13. Drinking Alcoholic Beverages in Public.

It shall be unlawful for any person to drink alcoholic beverages while in or upon any street, alley or other public place in the City of Yale, except that such beverages may be

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consumed or possessed by persons twenty one (21) years of age or older within the boundaries of any area licensed by the ABLE Commission.

Sec. 2-14. Transportation of Alcoholic Beverages.

It shall be unlawful for any person to knowingly transport in any vehicle upon a public highway, street or alley within the City of Yale any alcoholic beverage, to include be not limited to beer, wine or mixed 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, which shall include the spare tire compartment in a vehicle commonly known as SUV or station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in said vehicle while the vehicle is in motion.

Sec. 2-15. Permitting or allowing gatherings where minors are consuming alcoholic beverages.

(a) No person shall knowingly and willfully permit any individual under the age of 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 or any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

(b) It shall constitute an affirmative defense to any violation of this chapter if the conduct of the Defendant would not constitute a violation of Oklahoma state law.

Sec. 2-16. Penalty.

Any person, individual, partnership, corporation or association or officer, director, owner, manager or persons having supervisory control over the premises of any place who violates any provision of this chapter is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), excluding costs. Each day upon which such violation continues shall constitute a separate misdemeanor.

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Article 2. Occupation Tax

Sec. 2-17. Definitions.

The following words, terms and phrases, when used in this chapter and not defined to the contrary herein shall be interpreted and construed in accordance with the definitions of the same set for the in the Oklahoma Alcoholic Beverage Act, codified at Title 37A, Oklahoma State Statutes or regulations promulgated by the ABLE Commission with the same force and effect as if set forth in full herein.

Sec. 2-18. Occupation tax levied, amount.

(a) There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically contained herein and in the following amounts:

(1) Brewer	\$1,250.00
(2) Oklahoma Brewer	\$250.00
(3) Distiller	\$3,125.00
(4) Winemaker	\$625.00
(5) Oklahoma Winemaker	\$75.00
(6) Rectifier	\$3,125.00
(7) On Premises Beer and Wine-initial	\$500.00
(8) On Premises Beer and Wine-renewal	\$450.00
(9) Mixed Beverage-initial	\$1,005.00
(10) Mixed Beverage-renewal	\$905.00
(11) Caterer-initial	\$1,005.00
(12) Caterer-renewal	\$905.00
(13) Caterer/Mixed Beverage	\$1,250.00
(14) Retail Package Store	\$305.00
(15) Annual Special Event	\$55.00
(16) Quarterly Special Event	\$55.00
(17) Retail Wine	\$500.00
(18) Retail Beer	\$250.00
(19) Annual Public Event	\$1,000.00
(20) One Time Public Event	\$225.00
(21) Brewpub	\$1,005.00
(22) Exempt under 501(c)(3) Mixed Beverage	\$500.00

(b) If a license is required by the State of Oklahoma for any of the above occupations and if the State fails or refuses to issue or renew such license, the annual tax paid to the City of Yale under this section may be refunded provided that written proof, satisfactory to the City of Yale is provided showing that the State of Oklahoma license has been denied.\

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Sec. 2-19. Containers not to be opened or beverages consumed in package stores.

(a) No Brewer, State Brewer, Distiller, Winemaker, State Winemaker, Rectifier, Retail Package Store, Retail Beer and Retail Wine licensee, Beer and Wine or Mixed Beverage establishment, Caterer or annual, quarterly, or one time, or special or public event licensee, or Brewpub shall do business within the corporate limits of the City of Yale, until the occupation tax levied by this Article shall have been paid in full to the City of Yale and receipt issued therefore.

(b) Any person, firm corporation or partnership who engages in any of the occupations taxed by this Article without paying the occupation tax levied herein in advance of such operation is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), excluding costs. Each day upon which such violation continues shall constitute a separate misdemeanor.

Sec. 2-20. Payment.

Any state licensee originally entering upon or commencing any occupation, business or establishment upon which an occupation tax is levied by the provisions of this Chapter shall pay the required occupation tax to the City of Yale on or before the date upon which such licensee enters into such occupation or business. Thereafter, each licensee shall pay the occupation tax annually on or before the 1st day of July each year.

Sec. 2-21. Occupation tax prorated.

All occupation taxes levied under the provisions of this Chapter shall expire on the 30th day of June annually. The amount of any occupation tax levied shall be computed pro rata on the months remaining in the year ending on June 30. Such occupation taxes paid on or before the 15th day of any month shall be on the basis of the first day of the month, and such tax paid after the 15th day of any month shall be on the basis of the first day of the succeeding month.

Sec. 2-22. Occupation tax nontransferable.

The occupation taxes levied by this Chapter shall apply only to the person, firm, corporation or partnership paying the occupation tax and no successor person, firm, corporation or partnership shall hold such license and the occupation tax shall not be refundable nor shall the occupation license be transferrable.

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Sec. 2-23. City Clerk annual report.

The City Clerk shall make and transmit to the ABLE Commission Board an annual report showing the number and class of state licensees upon which the occupation taxes were levied pursuant to this Chapter and the amount of money collected from such occupation taxes.

Article 3. Certificate of Zoning Compliance

Sec. 2-24. Certificate of Compliance with Zoning and Fire Safety Codes.

(a) Every applicant for an original or renewal license, as required under the Oklahoma Alcoholic Beverage Act and as set forth in Title 37 and Title 37A of the Oklahoma Statutes, or rules promulgated by the ABLE Commission, except applicants for an employee or special event shall first obtain a certificate of zoning compliance and a certificate of fire, safety and health code compliance from the City Clerk of the City of Yale. The applicant for such certificates shall:

(1) Complete and file with the City Clerk an application for such certificate on a form as prescribed by the City of Yale.

(2) Deposit in advance with the City of Yale the occupation tax levied by this Chapter and additionally pay in advance any fee charged for the providing of the compliance certificate.

(b) Every such application shall include with the application an affidavit listing the names of all officers of such corporation or partnership.

(c) If the applicant's proposed location and use thereof shall comply with the zoning, building and fire codes and ordinances of the City of Yale.

(d) It shall be basis for denial of an application for a certificate of compliance should any person submit false or inaccurate information on such application for a certificate of compliance. (ORD. NO. 404)

Sec. 2-25. Investigation.

Upon receipt by the City of Yale of an application for a certificate of compliance the City of Yale shall:

(1) Conduct an investigation and inspection of the applicant's building and premises to determine if such building complies with all applicable safety and health ordinances of the City of Yale.

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(2) Conduct an investigation and inspection by the fire chief, or designate, to determine if the applicant's building and premises comply with all applicable fire safety ordinances of the City of Yale.

(3) Conduct a search by the Chief of Police to determine if the applicant, or any officers, have a criminal record.

Sec. 2-26. Issuance of Certificates.

Upon payment of all necessary fees and occupation taxes, and upon successful completion of the investigations required by Section 2-24 hereof, the City Clerk shall issue to the applicant a certificate of compliance. Said certificate shall be signed by the City Clerk, or Deputy City Clerk, and sealed with the seal of the City of Yale.