

CHAPTER III. BEVERAGES

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ARTICLE 1. DEFINITIONS

- 3-101. DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates different intention, the following terms shall, for the purpose of this chapter have the meanings indicated as stated below.
- (a) “Alcohol” – means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.
 - (b) “Alcoholic liquor” – means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.
 - (c) “Beer” – means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.
 - (d) “Caterer” – means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.
 - (e) “Cereal malt beverage” – means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.
 - (f) “Class A Club” – means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans’ club, as determined by the Director of Alcoholic Beverage Control of the Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (referred to as members) and their families and guests accompanying them.

- (g) “Class B Club” – means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.
- (h) “Distributor” – means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.
- (i) “Drinking establishment” – means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (j) “Highways and public places” – shall include streets, alleys and all public property and buildings of the city; state and federal highways within the city; public and private off-street parking facilities open for use by the public; public and private parks and playgrounds open for use by the public; school and church driveways; service stations; drive-in businesses and commercial facilities; and sales lots for display of automobiles, machinery and equipment.
- (k) “Manufacturer” – means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or baffling alcoholic liquor, beer, or cereal malt beverage.
- (l) “Minor” – means any person under 21 years of age.
- (m) “Motor vehicle” – shall be and include every vehicle which is self-propelled.
- (n) “Person” – means any natural person, corporation, partnership, trust or association.
- (o) “Retailer” – means a person who sells at retail, or offers for sale or retail, alcoholic liquor.
- (p) “Restaurant” – means:
- (1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period.
 - (2) In the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the Director of Alcoholic Beverage Control of the Department of Revenue, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period.
- (q) “Sale” – means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

ARTICLE 2. CEREAL MALT BEVERAGES

- 3-201. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises to sell any cereal malt beverage in any other manner. (Ord. 1162; Code 1987)
- 3-202. APPLICATION. (a) Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified and upon a form prepared by the attorney general of the State of Kansas and shall contain:
- (1) The name and residence of the applicant.
 - (2) The length of time that the applicant has resided within the State of Kansas.
 - (3) The particular place of business for which a license is desired.
 - (4) The name of the owner of the premises upon which the place of business is located.
 - (5) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.
- (b) Each application shall be accompanied by a certificate from the city inspector certifying that he/she has inspected the premises to be licensed and that the same complies with the fire and health codes and/or ordinances of the city.
- (c) Each application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether the applicant is qualified as a licensee under the provisions of this article. The chief shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with the current notification requirements. (Ord. 1162, Sec. 2; Code 1987)
- 3-203. LICENSE APPLICATION PROCEDURES. (a) All applications for a new or renewed cereal malt beverage license shall be submitted to the city clerk at least 10 days in advance of the governing body meeting at which they will be considered.

(b) The city clerk shall notify the holder of an existing license 30 days in advance of its expiration.

(c) The city clerk shall provide copies of all applications to the police department and city inspector when they are received. The police department shall run a records check on all applicants and the city inspector will inspect the premises in accordance with city fire codes and/or ordinances. The police department and city inspector will then recommend approval or disapproval of applications within five working days of receipt of the application. (Ord. 1162, Sec. 4; Code 2011)

3-204 LICENSE GRANTED; DENIED. (a) The journal of the governing body meeting shall show the action taken on the application.

(b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.

(c) No license shall be transferred to another licensee.

(d) If the license is denied, the license fee shall be immediately returned to the person who has made application. (Code 1987)

3-205. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Ord. 1162, Sec. 5; Code 1987)

3-206. LICENSE, DISQUALIFICATION. No retailer's license shall be issued to:

(a) A person who is not a resident of the county in which the place of business covered by the license is located, has not been a resident of such county for at least six months, or has not been a resident in good faith of the State of Kansas.

(b) A person who has not been a resident of the State of Kansas for at least one year immediately preceding application for a retailer's license.

(c) A person who is not of good character and reputation in the community in which the person resides.

(d) A person who is not a citizen of the United States.

(e) A person who, within two years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(f) A partnership, unless all the members of the partnership are otherwise qualified to obtain a license.

(g) A corporation, if any manager, officer, or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship and residency requirements.

(h) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock, of a corporation which (1) has had a retailer's license revoked under K.S.A. 41-2708, and

amendments thereto; or (2) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of the State of Kansas.

(i) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee.

(j) A person, licensee or manager who is delinquent on property taxes for the business and business related personal and real property.

(j) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license.

(k) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act. (Code 2011)

3-207. RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within 200 feet measured from front door to front door, following the center line of the sidewalk, of any church or schoolhouse.

(c) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall determine to grant or not to grant such a waiver only following public notice and hearing.

(d) The provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas. (Ord. 1162, Sec. 9; Code 1987)

3-208. LICENSE FEE. (a) The full amount of the license fee shall be required regardless of the time of year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. The license fee shall be as follows:

(1) General Retailer. For each place of business selling cereal malt beverages at retail for consumption on the premises, \$100.00 per calendar year.

(2) Limited Retailer. For each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50.00 per calendar year.

(b) In addition to the fee prescribed in (a) above, each applicant for a retailer's license or renewal of such a license shall remit an additional fee of \$25.00. Such fee will be remitted to the Director who shall authorize a state stamp to be affixed to the license. No such stamp shall be affixed to any license except such stamps as provided by the Director and no retailer's license shall be issued or renewed unless such stamp has been affixed thereto. (Ord. 1162, Sec. 3; Code 2011)

3-209.

LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY.

The governing body, upon five days' written notice to a person holding a license to sell cereal malt beverages, may revoke or cause to be suspended such license for any of the following reasons.

- (a) The licensee has fraudulently obtained the license by giving false information in the application.
- (b) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the city.
- (c) The licensee has become ineligible to obtain a license under this article.
- (d) Drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business.
- (e) The sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage.
- (f) The nonpayment of any license fee.
- (g) Permitting any gambling in or upon the licensee's place of business.
- (h) Permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose.
- (i) The employment of persons under 18 years of age in dispensing or selling cereal malt beverages.
- (j) The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of the State of Kansas or the United States.
- (k) The sale or possession of; or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto.
- (l) The licensee has been convicted of a violation of the beer and cereal malt beverage key registration act.
- (m) The provisions of subparagraphs (h) and (k) shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act. (Code 2011)

3-210.

HEARING. The governing body of the city shall hold a hearing upon any question or revocation of a license. Following such hearing, the governing body shall have the power to revoke or suspend any license issued under the provisions of this article if a majority of the governing body finds that the licensee has violated any law, ordinance or regulation governing the sale of cereal malt beverages. No formality shall be required in such hearing, and the same may be conducted in any manner which may be deemed appropriate by the governing body. (Ord. 1162, Sec. 17)

3-211.

APPEAL. Within 20 days after the order of the governing body of the city revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or

suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. In case of revocation of the license of any licensee, no new license shall be issued to the former licensee, or to any person acting for or on the former licensee's behalf, for a period of six months thereafter. (Ord. 1162, Sec. 16; Code 2011)

3-212. CHANGE OF LOCATION. If a licensee desires to change the location of his/her place of business, he/she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$10.00. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Code 1987)

3-213. CASH SALES. No person, wholesaler and/or distributor shall sell or furnish cereal malt beverages at retail to any person or retailer on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. (Code 2011)

3-214. SALES PRACTICES PROHIBITED. No retailer or employee or agent of a retailer, licensed to sell cereal malt beverages for consumption on the licensed premises shall:

- (a) Offer or serve any free cereal malt beverage to any person.
- (b) Offer to serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee.
- (c) Sell, offer to sell, or serve 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 general public.
- (d) Sell, offer to sell, or serve any drink to any person at any time at a price less than that charged the general public on that day, except at private functions not open to the general public.
- (e) Increase the size of a drink of cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day.
- (f) Encourage or permit, on the licensed premises, any game or contest which involves drinking cereal malt beverages or the awarding of drinks as prizes.
- (g) Advertise or promote in any way, whether on or off the licensed premises, any practices prohibited under this section.
- (h) Nothing in this section shall be construed to prohibit a retailer from offering free food or entertainment at any time. (Code 2011)

3-215. BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations:

- (a) Except as provided in this section, no cereal malt beverages may be sold
 - (1) Between the hours of 12 midnight and 6 a.m.; or

(2) On Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises, where cereal malt beverages may be sold, dispensed and consumed only between the hours of 12 noon and 7 p.m. The governing body of the city shall have the authority to require such places of business to verify that at least 30 percent of its gross receipts are from the sale of food.

(b) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club pursuant to the club and drinking establishment act.

(d) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(e) Cereal malt beverages may be sold on premises which are licensed pursuant to both the acts contained in K.S.A. 41-2601 and K.S.A. 41-2701 at any time when alcoholic liquor is allowed by law to be served on the premises.

(f) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premise licensed as a club pursuant to the club and drinking establishment regulations contained in K.S.A. 41-2601 shall be open to law enforcement officers and not to the public.

(g) No licensee shall permit a person under the legal age for consumption of cereal malt beverages to consume or purchase any cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverages to possess cereal malt beverages in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverages, if:

(1) The licensee's place of business is licensed only to sell cereal malt beverages at retail in original and unopened containers and not for consumption on the premises; or

(2) The licensee's place of business is a licensed food service establishment and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(h) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to K.S.A. 41-2601.

(i) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(j) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(k) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverages to any person under 21 years of age.

(l) No licensee or agent or employee of the licensee shall permit any gambling in the place of business, excluding state-run lotteries, for which such license has been issued.

(m) No licensee or agent or employee of licensee shall permit any person to mix alcoholic drinks with materials purchased in the place of business or brought in for such purposes.

(n) No licensee, agent or employee of licensee shall permit any threatening, quarrelsome, boisterous conduct or language or any annoying, unnecessary and offensive noises by mechanical devices or otherwise in or about his or her place of business.

(o) No licensee shall employ any person who has been judged guilty of a felony. (Ord. 1429; Code 2011)

3-216. **SANITARY CONDITIONS REQUIRED.** All parts of the licensed premises including furnishings and equipment, shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper shall be provided at all times. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be subject to inspection by the city health officer or designee at all times. (Code 1987)

3-217. **TEMPORARY CEREAL MALT BEVERAGE LICENSE.** The city shall be authorized to issue a temporary cereal malt beverage license to any person, nonprofit, religious, fraternal, educational or veteran's organization operating within the city, hereinafter termed for purposes of this article, "nonprofit organization" or "person".

(a) Person or nonprofit organization desiring a temporary license shall make application therefore in writing to the governing body through the city clerk and accompany the application with the required license fee. The application shall be verified and be upon a form prepared by the attorney general of the State of Kansas and shall contain that information as far as is applicable and required by Section 2-102. All applications for a temporary cereal malt beverage license shall be made at least 21 days prior to the date of the event. The application, in addition to the above-required information, shall indicate the person or nonprofit organization that is applying for the license.

(b) All such temporary licenses shall be valid for a period not to exceed seventy-two (72) hours as specified in the license and at the place specified in the application. It shall be unlawful for any person or nonprofit organization to sell the cereal malt beverage at any time other than the 72-hour period specified or at

a place other than that specified in the license application and approved by the governing body.

(c) The fee for a temporary cereal malt beverage license shall be Fifty Dollars (\$50.00).

(d) All provisions of this article not inconsistent with the stated terms of this article shall apply to temporary cereal malt beverage licenses. No license shall be issued unless all of the criteria for a license established by this article has been met. In addition thereto, no temporary license shall be issued unless adequate trash receptacles are provided and sanitation provisions are made. The applicant is responsible for the litter and other material during and after the event and, in addition, the applicant is responsible for demonstrating that adequate parking is available.

(e) A cash bond shall be required for any temporary cereal malt beverage license issued for a location on publicly owned property. The city clerk shall establish the amount of the bond.

(f) As used in this article, the following words and phrases shall have the following meanings, unless the context otherwise requires:

(1) "Temporary cereal malt beverage" means a temporary license to sell cereal malt beverages for 72 hours, issued pursuant to this article.

(2) "Nonprofit, religious, charitable, fraternal, education, or veterans organizations" shall have those meanings as ascribed to them in K.S.A. 79-4701.

(g) No cereal malt beverages may be sold between the hours of 12 midnight and 6 a.m. at any event for which a temporary cereal malt beverage license has been issued.

(h) The city clerk shall notify the chief of police whenever a temporary cereal malt beverage license has been issued and forward a copy of the license and application to the chief of police.

(i) Said sales shall be within an area confined by a fence, barrier, tent or other method of confinement as approved by the city clerk. The chief of police shall inspect said area prior to sale. (Ord. 1576)

3-218. CONSUMPTION WHILE DRIVING. No person shall consume any cereal malt beverage while operating any vehicle upon any street or highway. Violation of this section is punishable by a fine of not less than \$50.00 or more than \$200.00 or by imprisonment for not more than six months, or both. (Code 1987)

3-219. CONSUMPTION ON HIGHWAYS AND PUBLIC PLACES PROHIBITED. (a) Except otherwise provided herein, it shall be unlawful for any person (i) to consume any cereal malt beverage upon any highway or public place, as hereinafter defined, or in or about any motor vehicle moving or standing upon any such highway or public place within the corporate limits of the city; and (ii) to have in his or her possession any cereal malt beverage not in its original, unopened container upon any highway or public place generally open to the public or to which the motoring public has access, or with any vehicle which is upon any of said places.

(b) Events and Times Allowed: The governing body, upon request of any event or special occasion sponsor or organizer, shall conduct a hearing to determine on a case by case basis the events (or special occasions) and times during which cereal malt beverages may be consumed in public places. The governing body may impose such reasonable safety precautions as necessary to protect property and the public generally and to ensure that the privacy and rights of others are not interfered with or adversely affected. The governing body may require that a cash bond be posted, subject to forfeiture, to ensure compliance with any conditions or requirements imposed by the governing body.

(c) Requirements. The following minimum requirements shall be applicable for the approval of any request to consume cereal malt beverages on public places: (a) The event or special occasion must be a community-wide event. (b) The sponsor or organizer must be resident of the City and have a cereal malt beverage license for the area designated for drinking or consuming cereal malt beverage; (c) The drinking or consumption of cereal malt beverages must be confined to a certain designated area suitable for such activity; (d) The sponsor must abide by hourly restrictions as determined reasonable and appropriate for the event; (e) The sponsor must designate a person or persons who will be present during the event and who will be responsible to address any concerns or inquires from law enforcement officers. (f) The sponsor must have adequate supervision and security for the activity. (g) The area designated for drinking must have appropriate rest room facilities and provide for reasonable access to such facilities. (h) The sponsor must provide for clean-up and trash disposal. (i) Notice must be posted that if consumption of cereal malt beverages occurs outside the designated area, such person or persons can be prosecuted for drinking in public places. (j) The sponsor must abide by all reasonable conditions or requirements, as determined by the governing body after conducting a hearing to consider any request.

(d) Appeals. Any person aggrieved by the decision of the governing body may appeal for review by the District Court. Before appealing, such person must request reconsideration by the governing body setting forth reasons why the decision of the governing body should be revised, changed or modified. The governing body shall have until the next city council meeting following the submission of a request for reconsideration in which to either reconsider the matter or deny reconsideration.

3-220.

POSSESSION OF CEREAL MALT BEVERAGES BY MINORS PROHIBITED. No minor shall have in such person's possession upon any highway or public place any cereal malt beverage, whether the container thereof is open or unbroken and whether or not in the act of consuming the same. This provision does not apply to minors employed by grocery stores who are performing carry-out services to automobiles as part of their employment duties. (Ord. 972, Sec. 4; Code 1987)

3-221.

TRANSPORTATION OF MINOR WITH CEREAL MALT BEVERAGES PROHIBITED. It shall be unlawful for any minor to drive or ride as a passenger or for any person to so transport any minor, in or upon any motor vehicle on the highways or public places within the corporate limits of the city in which cereal malt beverage is being transported in opened containers. (Ord. 972, Sec. 5)

ARTICLE 3. ALCOHOLIC LIQUOR, GENERAL PROVISIONS

- 3-301. **RESTRICTION ON LOCATION.** (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any church or school, said distance to be measured from the nearest property line of such church or school to the nearest portion of the building occupied by the premises.
- (b) The distance location of sub-paragraph (a) above shall not apply to a club, drinking establishment, caterer or temporary permit holder when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.
- (c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes. (Code 1987)
- 3-302. **MINORS ON PREMISES.** (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premise consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.
- (b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premise consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.
- (c) This section shall not apply if the person under the age of 21 years is accompanied by his/her parent or guardian, or if the licensed or permitted premise derives not more than 50 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premise consumption. (Code 1987)
- 3-303. **CONSUMPTION ON PUBLIC PROPERTY.** (a) No person shall drink or consume any alcoholic beverage on city-owned public property. (b) No person shall have, in such person's possession, any alcoholic beverage not in its original, unopened container upon any highway or public place generally open to the public or to which the motoring public has access or within any vehicle which is upon any of said places. (c) The City Council, upon written application, may permit the consumption of alcoholic beverages on city-owned property and may waive any business regulation or other applicable restriction that may prohibit or limit such events. Such application shall be reviewed by applicable advisory boards and by the city police and fire departments for comment and recommendation. The City Council may impose reasonable conditions upon such permission to assure public safety and may require reasonable deposits for clean-up and damage. (d) Violation of this subsection is punishable by a fine of not less than \$50.00 or more than \$200.00, or by imprisonment for not more than six months, or both. (Ordinance 1725).

- 3-304. CONSUMPTION WHILE DRIVING. (a) No person shall drink or consume any alcoholic beverage while operating a vehicle upon any street or highway. (b) Violation of this subsection is punishable by a fine of not less than \$50.00 or more than \$200.00, or by imprisonment for not more than six months, or both.
- 3-305. SALES PROHIBITED. (a) No person shall knowingly or unknowingly sell, give away, dispose of, exchange or deliver or permit the sale, gift or procuring of any alcoholic liquor to or for any minor, and no such minor shall represent that such person is of age for the purpose of asking for, purchasing or receiving alcoholic liquor from any person, except in cases authorized by law. (b) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor. (Code 1987)
- 3-306. PENALTY. If the license or permit holder has violated any of the provisions of Articles 3, 4, 5, 6, 7 or 8 of this chapter, the governing body of the city, upon five days written notice to a person holding a license or permit to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license or permit and the individual holding the license or permit may be charged in municipal court with a violation of the alcoholic liquor laws of the city and upon conviction shall be punished by:
- (a) A fine of not more than \$500; or
 - (b) Imprisonment in jail for not more than 180 days; or
 - (c) Both such fine and imprisonment not to exceed (a) or (b) above. (Code 1987)

ARTICLE 4. RETAILER'S LICENSE

- 3-401. LICENSE REQUIRED. It shall be unlawful for any person to keep, offer, expose for sale or sell any alcoholic liquor as defined within this Chapter without first obtaining a license to do so as required by the statutes of the State of Kansas. (Code 2011)
- 3-402. TAX FOR RETAILERS. There is hereby levied an annual occupation tax of \$300.00 on each retailer of alcoholic liquor in the original package only, including beer containing more than three and two-tenths percent of alcohol by weight, for consumption off the premises. The tax prescribed by this section shall be paid before business is begun under an original state license and within 10 days after any renewal of a state license. (Ord. 575, Sec. 1)
- 3-403. RECEIPT. A holder of a license for the retail sale of alcoholic liquor by the package in the city issued by the Director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax in Section 3-402 of this article and the tax shall be received and receipt issued for the period covered by the state license. (Ord. 575, Sec. 2)
- 3-404. DISPLAYING RECEIPT. Every licensee shall cause the city alcoholic liquor retailer's occupation tax receipt to be displayed in plain view next to or before the state license in a conspicuous place on the licensed premises. (Code 1987)
- 3-405. DAYS AND HOURS OF OPERATION. No person shall sell at retail any alcoholic liquor (1) on Easter Sunday, Thanksgiving Day or Christmas Day; or (2) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or (3) before 12:00 noon or after 7:00 p.m. on Sunday.

ARTICLE 5. PRIVATE CLUBS

- 3-501. **LICENSE REQUIRED.** It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Code 1987)
- 3-502. **LICENSE FEE.** (a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the Director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a Class A Club shall be \$100.00 and the city license fee for a Class B Club shall be \$250.00.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city club license to be placed in plain view next to or before the state license in a conspicuous place on the licensed premises. (Code 1987)
- 3-503. **BUSINESS REGULATIONS.** (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day. All persons except employee shall vacate the premises by 2:30 a.m.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age. (Code 1987)

ARTICLE 6. DRINKING ESTABLISHMENTS

- 3-601. **LICENSE REQUIRED.** It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk (Code 1987)
- 3-602. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$250.00 on each drinking establishment located in the city which has a drinking establishment license issued by the Director of alcoholic beverage control, which shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or before the state license in a conspicuous place on the licensed premises. (Code 1987)
- 3-603. **BUSINESS REGULATIONS.** (a) No drinking establishment hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day. All persons except employee shall vacate the premises by 2:30 a.m.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premise consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (Code 1987)

ARTICLE 7. CATERERS

- 3-701. **LICENSE REQUIRED.** It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Code 1987)
- 3-702. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$150 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises. (Code 1987)
- 3-703. **BUSINESS REGULATIONS.** (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (Code 1987)
- 3-704. **NOTICE TO CHIEF OF POLICE.** Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least 48 hours prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving. (Code 1987)

ARTICLE 8. TEMPORARY PERMITS

- 3-801. **PERMIT REQUIRED.** It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 1987)
- 3-802. **PERMIT FEE.** (a) There is hereby levied a temporary permit fee in the amount of \$25.00 per day on each group or individual holding a temporary permit issued by the Director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.
(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises. (Code 1987)
- 3-803. **TEMPORARY PERMIT.** (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a city temporary permit at least two days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
 (1) The name of the applicant.
 (2) The group for which the event is planned.
 (3) The location of the event.
 (4) The date and time of the event.
 (5) Any anticipated need for police, fire or other municipal services.
(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.
(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police. (Code 1987)
- 3-804. **PERMIT REGULATIONS.** (a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m., at any event for which a temporary permit has been issued.
(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age. (Code 1987)