

CHAPTER III. BEVERAGES

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ARTICLE 1. GENERAL PROVISIONS**3-101. Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Chapter, have the meanings indicated in this Section.

(a) Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, 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 percent 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 of 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) Domestic Beer means beer which contains not more than 8 percent alcohol by weight and which is manufactured from agricultural products grown in this State.

(f) 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 percent alcohol by weight.

(g) Club means a Class A or Class B club.

(h) 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 State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

(i) 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.

(j) Drinking Establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(k) Minor means a person under 21 years of age.

(l) Nonbeverage User means any manufacturer of any of the products set forth and described in K.S.A. 41-501 and amendments thereto, when the products contain alcohol or wine and all laboratories using alcohol for nonbeverage purposes.

(m) Original Package means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever used, corked, capped, sealed and labeled by the manufacture of alcoholic liquor, to contain and convey any alcoholic liquor.

(n) Retailer when applied to the sale of cereal malt beverages means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

(o) Retailer when applied to the sale of alcoholic liquors means a person who sells alcoholic liquors at retail or offers for sale at retail, alcoholic liquors but does not include a farm winery.

(p) Sell at Retail and Sale at Retail (alcoholic liquor) means sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits. Sell at retail and sale at retail does not mean sales by a distributor, farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

(q) Temporary Permit means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(Ord. 1500, Sec. 3-101; Code 1989)

3-102. Restriction on Location.

(a) No retailer's license shall be issued for premises which are located in areas not zoned for general commercial or business purposes.

(b) Any club or drinking establishment license shall be for one particular premises which shall be stated in the application and in the license.

(c) No retailer's, microbrewery or farm winery license shall be issued for premises which:

- (1) Are located within 200 feet of any public or parochial school or college or church, except that if any school, college or church is established within 200 feet of any licensed premises after the premises have been licensed, the premises shall be an eligible location for retail licensing; and
- (2) Do not conform to the building ordinances or laws of the State or City or, in the absence of the ordinances or laws, are not structurally in good condition or are in a dilapidated condition.

(Ord. 1500, Sec. 3-102)

3-103. 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-premises 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-premises 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) It shall be unlawful for any licensee or permit holder, or any owner, officer or employee thereof, to knowingly or unknowingly permit the consumption of alcoholic liquor or cereal malt beverage by a minor on premises where alcoholic beverages are sold by the licensee or permit holder.

(d) This Section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than fifty percent (50%) of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.

(Ord. 1500, Sec. 3-103)

3-104. Consumption on Public Property.

No person shall drink or consume any alcoholic liquor on publicly owned property. This prohibition shall not apply to the Bonner Springs/Wyandotte County Park, the golf course adjacent thereto or to the Community Rooms at the Community Center and South Park. This prohibition shall not apply to the City's Public Parking Lot south of Centennial Park for special events upon submission of an application and approval by the City Council. An application for each event shall be submitted to the City Clerk's Office. Such application shall be submitted ten (10) days prior to the City Council meeting prior to the event and shall include: date and times for the event; sketch of the area to be used showing a distance of more than thirty (30) feet from Centennial Park; defining the area (to be fenced) to which sale, possession and consumption are confined; proof of security and provide a Certificate of Insurance naming the City as an additional insured. The requested use shall comply with Section 3-803 and 3-804 of Chapter III and all other City codes and ordinances.

(K.S.A. Supp. 41-719; Ord. 1500, 2136, 2138 and 2245)

3-105. Possession, Consumption in Public Places.

It shall be unlawful for any person to drink or consume cereal malt beverages, or to have in possession an open container holding any cereal malt beverages, while upon the public streets, alleys, public parking lots, public buildings, public parks and other public property, private parking lots, roads or highways within the City, provided. This Section shall not apply to the Bonner Springs/Wyandotte County Park, the golf course adjacent thereto or the Community Rooms at the Community Center or South Park. This Section shall not apply to special events on public parking lots (but not in or within thirty (30) feet of a public park), private parking lots or sidewalks in commercially zoned areas for which the Bonner Springs Governing Body has approved following submission of an application to the City Clerk's office. Such application shall be submitted ten (10) days prior to the City Council meeting prior to the event and shall include: date and times for the event; description or sketch of the area to be used and defining the area (to be fenced) to which sale, possession and consumption are confined; proof of security and provide a Certificate of Insurances naming the City as an additional insured. The requested use shall comply with Section 3-803 and 3-804 of Chapter III, Article 2 and all other City codes and ordinances.

(Ord. 1529, Sec. 1, 2049, 2093 and 2245)

3-106. Public Sale Regulations.

It shall be unlawful for the holder of a retail license to sell, offer for sale, give away a permit to be sold, offered for sale or given away in or from the premises specified in the license any service or thing of value whatsoever except alcoholic liquor in the original package except that a licensed retailer may (a) charge a delivery fee for delivery to a club, drinking establishment or caterer; and (b) sell lottery tickets and shares to the public in accordance with the Kansas Lottery Act, if the retailer is selected as a lottery retailer.

(Ord. 1500, Sec. 3-105)

3-107. Identification Card.

(a) It shall be unlawful for any person to:

- (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
 - (2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
 - (3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
 - (4) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (b) It shall be unlawful for any person to:
- (1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.
 - (2) Lend any identification card to or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal malt beverage for use in the sale, purchase or consumption of any cereal malt beverage.

(Ord. 1500, Sec. 3-113; Code 1989)

3-108. Exceptions.

- (a) Nothing in this Article shall prevent:
- (1) The making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family;
 - (2) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;
 - (3) Any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of the hospital or institution;
 - (4) Any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians; or
 - (5) The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by the church.
- (b) This Article shall not apply to flavoring extracts, syrups or medicinal, mechanical, scientific, culinary or toilet preparations or food products unfit for beverage purposes.

(Ord. 1500, Sec. 3-107:108)

3-109. Advertising.

It shall be unlawful for:

(a) Any person to advertise any alcoholic liquor by means of billboards along public highways, roads or streets or for any owner or occupant of property to permit any billboard advertising alcoholic liquor to remain on the property; or

(b) Any retailer of alcoholic liquor to have any sign on the licensed premises in violation of K.S.A. Supp. 4-714(b).

(c) Any retailer to display alcoholic liquor in any window.

(Ord. 1500)

3-110. Sale to Incapacitated Persons.

No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procurement 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 liquor.

(Ord. 1500, Sec. 3-112; Code 2014)

3-111. Open Saloons Prohibited.

It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon as defined in K.S.A. 41-803(a).

(Ord. 1500, Sec. 3-116)

3-112. Known Violations; Liability.

(a) If the owner of any premises licensed under this Article or any person from whom the licensee derives the right of possession shall knowingly permit the licensee to use the licensed premises in violation of the terms of this Article, the owner, agent or other person shall be deemed guilty of a violation of this Article to the same extent as the licensee and be subject to the same punishment.

(b) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article by any officer, director, manager or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been committed by him or her personally.

(Ord. 1500, Sec. 3-118:119)

3-113. Prohibited Acts.

It shall be unlawful for any person except a manufacturer, distributor, micro-brewery, farm winery or wholesaler to fill or refill, in whole or in part any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor.

(Ord. 1500, Sec. 3-111)

3-114. Certain Conduct Prohibited.

The following conduct by a cereal malt beverage or alcoholic beverage licensee, manager, employee, waiter, waitress or entertainer or patron therein (collectively referred to herein as employee) is deemed contrary to public welfare and is unlawful and prohibited:

(a) Remaining or permitting any patron, employee or person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males/females pubic region, anus, buttocks or genitals;

(b) Permitting any employee or patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;

(c) Encouraging or permitting any employee or patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee or other patron;

(d) Performing or permitting any employee, patron or person to perform on the licensed premises acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy or any other sexual act which is prohibited by law; or

(2) Touching, caressing or fondling the breasts, buttocks, anus or genitals or the employee or any other person.

(e) Using or permitting any employee, patron or other person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this Section.

(f) Showing or permitting any employee, patron, or other person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

(2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;

(3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) As used in this Section, the term premises means the premises of such licensed establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of employees or persons within such other areas may be viewed by persons on or within the licensed premises.

(Ord. 1607)

3-115. Penalty.

Any person or entity that violates any provision of this Chapter is guilty of a public offense; and upon conviction thereof, shall be fined a sum to not exceed \$500, or by confinement in the Wyandotte County jail for a definite time not to exceed one (1) month or by both such fine and confinement.

(Ord. 2310)

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.

(K.S.A. 41-2702; Code 1989)

3-202. Application.

Any person desiring a retailer's license to sell cereal malt beverages 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:

(a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.

(e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two (2) years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any State or of the United States;

(f) Each application for a general retailer's license shall be accompanied by a certificate from the City-County Health Officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 8 of this code.

(g) Each application for a general retailer's license must be accompanied by a certificate from the City Fire Chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 7 of this code.

The 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 (1) copy of such application shall immediately be transmitted to the Chief of Police of the City for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this Chapter. The Chief shall report to the City Clerk not later than five (5) 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 current notification requirements.

(Ord. 1500, Sec. 3-301; Code 1989)

3-202a. License Application Procedures.

(a) All applications for a new and renewed cereal malt beverage license shall be submitted to the City Clerk 10 days in advance of the Governing Body meeting at which they will be considered.

(b) The City Clerk's office shall notify the holder of an existing license thirty (30) days in advance of its expiration.

(c) The Clerk's office shall provide copies of all applications to the Police Department, to the Fire Department, and to the health department, when they are received. The Police Department will run a records check on all applicants and the Fire Department and Health Department will inspect the premises in accord with Chapters 7 and 8 of this Code. The departments will then recommend approval, or disapproval, of applications within five (5) working days of the department's receipt of the application.

(d) The Governing Body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above City departments.

(e) An applicant who has not had a cereal malt beverage license in the City shall attend the Governing Body meeting when the application for a new license will be considered.

(Ord. 1500, Sec. 3-302)

3-203. 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 shall be denied, the license fee shall be immediately returned to the person who has made application.

(Ord. 1500, Sec. 3-303)

3-204. 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. 1500, Sec. 3-304)

3-205. License, Disqualification.

No license shall be issued to:

(a) A person who has not been a resident in good faith of the State of Kansas for at least one (1) year immediately preceding application and a resident of Wyandotte, Johnson or Leavenworth County for at least six (6) months prior to filing of such application.

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

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

(d) A person who, within two (2) years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any State or of the United States.

(e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.

(f) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than nonresidence within the City or County.

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this State.

(h) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.

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

(Ord. 1500, Sec. 3-306)

3-206. 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 general commercial or business purposes.

(b) This Section shall not apply to uses in effect on the effective date of this codification.

(c) Provisions of this Section shall not apply to any establishment holding a private club license issued by the State of Kansas.

(d) 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 grant such a waiver only following public notice and hearing.

(K.S.A. 41-2704; Code 1989)

3-207. Suspension of License.

The Chief of Police, upon five (5) days' written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this Chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the Governing Body within seven (7) days from the date of such order.

(Ord. 1500, Sec. 3-307)

3-208. License Suspension/Revocation by Governing Body.

The Governing Body of the City, upon five (5) days' written notice, to a person holding a license to sell cereal malt beverages may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license for any of the following reasons:

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this Article or has become ineligible to obtain a license under this Article;

(c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;

(d) The sale of cereal malt beverages to any person under 21 years of age;

(e) For permitting any gambling in or upon any premises licensed under this Article;

(f) For permitting any person to mix drinks with materials purchased in any premises licensed under this Article or brought into the premises for this purpose;

(g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages;

(h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;

(i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this Article;

(j) The nonpayment of any license fees;

(k) If the licensee has become ineligible to obtain a license under this Chapter;

(l) The provisions of Subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

(K.S.A. 41-2708; Ord. 1500, Sec. 3-308)

3-209. Same; Appeal.

The licensee, within 20 days after the order of the Governing Body revoking any license, may appeal to the District Court of Wyandotte County and the District Court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this Section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six (6) months thereafter.

(K.S.A. 41-2708; Ord. 1500, Sec. 3-309)

3-210. Change of Location.

If a licensee desires to change the location of his or her place of business, he or 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 as approved by the City Council. 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.

(Ord. 1500, Sec. 3-305)

3-211. Wholesalers And/or Distributors.

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the City, to persons authorized under this Article to sell the same within this City unless such wholesaler and/or distributor has first secured a license from the director of revenue, State commission of revenue and taxation of the State of Kansas authorizing such sales.

(K.S.A. 41-307:307a; Ord. 1500)

3-212. Business Regulations.

It shall be the duty of every licensee to observe the following regulations.

(a) 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.

(b) 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.

(c) Hours of Sale & Consumption:

(1) The sale at retail of cereal malt beverages in the original package is allowed on Sundays, except Easter, between the hours of 12 noon and 8 p.m.

(2) Except as provided by Subsections (c)(1) and (d), no cereal malt beverages may be sold, dispensed or consumed between 12:00 midnight and 6:00 a.m., Monday through Saturday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises;

(d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

(f) 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.

(g) 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.

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

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

(k) No licensee shall employ any person who has been judged guilty of a felony.

(Ord. 1500, Sec. 3-311; Code 1997)

3-213. 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 at all times shall be provided. 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 at all times subject to inspection by the City-County Health Officer or designee.

(Ord. 1500, Sec. 3-312)

3-214. Minors on Premises.

(a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This Section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than fifty percent (50%) of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

(Ord. 1500, Sec. 3-313)

ARTICLE 3. LICENSES

3-301. License Required.

(a) No alcoholic liquor, wine or cereal malt beverage shall be sold or served at retail by any person within the City unless the person shall be licensed therefor under the provisions of the State liquor control and the provisions of this Code.

(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 cereal malt beverages in any other manner.

(Ord. 1500, Sec. 3-201)

3-302. License Tax.

Any person holding a license issued under this Chapter shall pay an annual license tax to the City before business is begun under an original license and within 10 days after the renewal of the license, as approved by the City Council:

- (a) To manufacture alcohol and spirits.
- (b) To manufacture beer and wine
 - (1) Beer regardless of alcoholic content;
 - (2) Wines;
 - (3) Micro-brewery license;
 - (4) Farm winery license.
- (c) Spirits Distributor.
- (d) Alcoholic liquor distributor for the first and each additional wholesale distributing place of business in the City by the same licensee and wholesaling or jobbing liquors except beer.
- (e) Beer distributor, for the first and each additional wholesale distributing place of business in the City by the same license and wholesaling or jobbing beer and cereal malt beverage.
- (f) Wine distributor for the first and each additional wholesale distributing place of business and wholesaling and jobbing wine.
- (g) Retailers of alcoholic liquors, including beer containing more than 3.2 percent of alcohol by weight, for consumption off the premises, sales in original packages only.
- (h) Non-beverage User (Classes 1 to 5).
- (i) Drinking Establishment.
- (j) Class A or B Club.

- (k) Caterers.
- (l) Temporary Permits.
- (m) Cereal Malt Beverage licenses:
 - (1) Retailer - for each place of business selling cereal malt beverages at retail for consumption on the premises, 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, per calendar year.
 - (3) The full amount of the license fee shall be required regardless of the time of the 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.
(Ord. 1500, Sec. 3-202)

3-303. Application.

(a) Any person desiring a license required by this Chapter shall make application therefor to the City Clerk on a form provided for such purpose and shall present the license issued him or her by the State if any.

(b) Each application for licensure as a club shall be accompanied by a copy of the current bylaws and rules of the club and a current list of the officers of the club.

(Ord. 1500, Sec. 3-204)

3-304. Display.

(a) Every licensee under this Article shall cause the City license to be placed in plain view next to or below the State license in a conspicuous place on the licensed premises.

(b) Each club shall maintain at the licensed premises a current list of all members and their residence address.

(Ord. 1500, Sec. 3-205)

ARTICLE 4. ALCOHOLIC LIQUOR

3-401. State License Required.

(a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a State license to do so.

(b) The holder of a license for the retail sale in the City of alcoholic liquors by the package issued by the State director of alcoholic beverage control shall present such license to the City Clerk when applying to pay the occupation tax levied in Section 3-402 and the tax shall be received and a receipt shall be issued for the period covered by the State license.

(Code 1989)

3-402. Occupational Tax.

There is hereby levied a biennial occupation tax, as approved by the City Council, on any person holding a license issued by the State director of alcoholic beverage control for the retail sale within the City of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the City Clerk before business is begun under an original State license and shall be paid within five (5) days after any renewal of a State license.

(Ord. 1500, Sec. 3-202; Code 1989; K.S.A. 41-310(1)(1); Code 2014)

3-403. Posting of Receipt.

Every licensee under this Article shall cause the City alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the State license in a conspicuous place on the licensed premises.

(Code 1989)

3-404. Hours of Sale.

Effective November 15, 2005, no person shall sell at retail any alcoholic liquor:

(a) On Easter Sunday,

(b) On Thanksgiving Day or Christmas Day,

(c) Before 9:00 a.m. or after 11:00 p.m. Monday through Saturday or before 12 noon or after 8 p.m. on Sundays.

(K.S.A. 41-712; Ord. 1500, Sec. 3-114; Code 1997, Ord. 2103)

3-405. Business Regulations.

It shall be unlawful for a retailer of alcoholic liquor to:

(a) Permit any person to mix drinks in or on the licensed premises;

(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;

(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;

(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or

(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.

(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.

(Ord. 1500, Sec. 3-106; Code 1989)

3-406. Restrictions on Location.

No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from the nearest property line of any existing hospital, school, church or library.

(K.S.A. 41-710; Code 1989)

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 1989)

3-502. License Fee.

(a) There is hereby levied an biennial license fee on each private club located in the City which has a private club 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 (5) days after any renewal of a State license. The City license fee for a Class A club shall be as approved by the City Council, and the City license fee for a Class B club shall be as approved by the City Council.

(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 below the State license in a conspicuous place on the licensed premises.

(Ord. 1500, Sec. 3-202; Code 1989; K.S.A. 41-2622; Code 2014)

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.

(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 1989)

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 1989)

3-602. License Fee.

(a) There is hereby levied an biennial license fee as approved by the City Council on each drinking establishment located in the City which has a drinking establishment 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 (5) 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 below the State license in a conspicuous place on the licensed premises.

(Ord. 1500, Sec. 3-202; Code 1989; K.S.A. 41-2622; Code 2014)

3-603. Business Regulations.

(a) No drinking establishment 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.

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises 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.

(Ord. 1500, Sec. 3-114; Code 1989)

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 1989)

3-702. License Fee.

(a) There is hereby levied a biennial license fee as approved by the City Council 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 (5) 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.

(Ord. 1500, Sec. 3-202; Code 1989)

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.

(Ord. 1500, Sec. 3-114; Code 1989)

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 72 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.

(Ord. 1500, Sec. 3-120; Code 1989)

ARTICLE 8. TEMPORARY PERMITS

3-801. Permit Required.

A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on unlicensed premises which may be open to the public subject to the terms of such permit. No temporary permit for the sale and consumption of alcoholic liquor shall be issued until the applicant has been granted a temporary permit by the State of Kansas.

(Ord. 1569, Sec. 1)

3-802. Permit Fee.

(a) A permit fee for a temporary permit shall be established by the City Council, which fee shall be paid before the event begins.

(b) Every temporary permit holder shall cause the temporary permit 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 or cereal malt beverage for consumption on the premises.

(Ord. 1569, Sec. 1, Ord. 2291, Sec. 1)

3-803. City Temporary Permit.

(a) It shall be unlawful for any person to conduct an event temporarily or unlicensed premises without first applying for a local temporary permit at least 72 hours 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 and
- (5) Any anticipated need for police, fire or other municipal services.

(b) Upon 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. No temporary permit for the sale or consumption of alcoholic liquor shall be issued until the applicant shall present to the City a temporary permit issued by the State of Kansas for such purpose.

(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.

(Ord. 1569, Sec. 1)

3-804. Temporary Permits; Business Regulations – Alcoholic Liquor.

(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. (c) No temporary permit shall be issued for a period of time exceeding three (3) consecutive days.

(d) The temporary permit shall specify and state the dates, hours, location of the event and any other conditions specified by the Governing Body of the City.

(e) Not more than four (4) alcoholic liquor temporary permits may be issued to any one (1) applicant in a year.

(KSA 41-2645 & 2646; Ord. 1569; 2049; 2093; 2310)

3-805. Temporary Permits; Business Regulations – Cereal Malt Beverages.

(a) A special event retailer's permit may be issued to allow the holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, which may be open to the public subject to the following:

- (1) A special event retailers' permit shall specify the premises for which permit is issued.
- (2) A special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit provided that no cereal malt beverage may be offered for sale, sold, or served between the hours of 12 midnight and 6:00 a.m., on Sunday, or as otherwise set out in K.S.A. 41-2704.
- (3) No more than four (4) special event retailers' permits may be issued to any one (1) applicant in a calendar year.
- (4) A special event retailers' permit shall not be transferable or assignable.

(b) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act, K.S.A. 41-2901 et seq., and amendments thereto.

(Ord. 2310)