

CHAPTER 3. BEVERAGES

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ARTICLE 1. CEREAL MALT BEVERAGES

3-101 DEFINITIONS. As used in this article the words and phrases herein defined shall have the following meaning unless the context otherwise requires:

- (a) “Person” shall include individuals, firms, corporations, co-partnerships and associations;
- (b) “Sale At Retail and Retail Sale” means sales for use or consumption and not resale in any form;
- (c) “Place Of Business” shall mean any place at which cereal malt beverages are sold;
- (d) “Wholesaler or Distributor” shall mean individuals, firms, co-partnerships, corporations and associations which sell or offer for sale any beverage referred to in this article, to persons, co-partnerships, corporations and associations authorized by this article to sell cereal malt beverages at retail;
- (e) “Cereal Malt Beverage” shall include any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute but shall not include any such liquor which contains more than three and two-tenths percent (3.2%) alcohol by weight;
- (f) “Juvenile” shall include male and female persons less than eighteen (18) years of age;
- (g) “Motor Vehicle” shall include all motor-powered means of transportation and conveyance ordinarily used or capable of being used for the transportation of persons, such as automobiles, trucks, pickups, jeeps, racing cars, racing jalopies, motorcycles, motor scooters, farm tractors, garden tractors, truck tractors;
- (h) “Highways and Public Places” shall include streets, alleys and public ways of the city, state and federal highways within the corporate limits of the city, off-street parking facilities of businesses, churches, schools, private parking areas, public parks, public playgrounds, school playgrounds, church playgrounds, school and church driveways, service stations, food and beverage drive-ins, drive-in laundries, automobile, implement and machinery sales and display lots. (K.S.A. 41-2701)

- 3-102 LICENSE FEES. The license fees of persons engaged in the retail sale of cereal malt beverages under the provisions of K.S.A. 41-2701; 2712, and amendments thereto within the city limits of Washington, Kansas, are hereby prescribed as follows:
- (a) For each place of business selling only at retail cereal malt beverages in original and unbroken lots and not for consumption on the premises, per calendar year.....fifty dollars (\$50.00).
 - (b) For each other place selling cereal malt beverage at retail, per calendar year.....fifty dollars (\$50.00).
- 3-103 HOURS OF SALE. No person shall sell at retail, any cereal malt beverage between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) a.m. or on Sunday except between the hours of twelve o'clock (12:00) noon and eight o'clock (8:00) p.m. (excluding Easter Sunday); nor shall any person sell at retail any cereal malt beverage to any person under the legal age provided in Kansas Statutes; nor shall any person sell at retail any cereal malt beverage in a place of business operating private rooms or closed booths; nor shall any person holding a license hereunder, including his agents and employees, permit any person other than the licensee, his agents and employees to remain within or about or to enter the licensee's place of business licensed to sell cereal malt beverages between the hours of twelve fifteen (12:15) a.m. and six o'clock (6:00) a.m. or on Sunday except between the hours of twelve o'clock (12:00) p.m. and eight o'clock (8:00) p.m. (excluding Easter Sunday).(Ord. 661 Sec. 1)(Ord. 702 Sec. 1)
- 3-104 CONSUMPTION. No person shall be permitted by any person holding a license hereunder to consume or drink any cereal malt beverage between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) a.m. or on Sunday or any election day in or about a place of business licensed to sell cereal malt beverages.
- 3-105 TRANSPORTING CEREAL MALT BEVERAGES. It shall be unlawful for any person to transport in any vehicle upon any street, highway, alley, sidewalk or public place as hereinbefore defined, or in or about any motor vehicle moving or standing upon any such public road, street or place within the corporate limits of the City of Washington, any cereal malt beverage except in the original package or container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap shall not have been removed, unless the opened container be in a locked rear trunk or compartment, or any locked outside compartment which is not accessible to the driver or any other person in said vehicle.
- 3-106 POSSESSION OF BEER BY PERSON UNDER TWENTY-ONE YEARS OF AGE. It shall be unlawful for any person under the age of twenty-one (21) years to have in his possession upon any street, highway or public place within the corporate limits of the city, any cereal malt beverage whether the container thereof is open or unbroken and whether or not in the act of consuming the same. (Ord. 645 Sec. 2)
- 3-107 LITTERING. It shall be unlawful for any persons to litter any street, highway or public place or private property with discarded and abandoned cereal malt beverage containers, bottles, broken or unbroken, cans, jugs, cartons, cases, kegs or similar refuse or trash.

3-108 PENALTY. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, or in the case of a juvenile less than eighteen (18) years of age, shall be deemed a juvenile offender under the juvenile code of the State of Kansas, and upon the conviction of an adult of such misdemeanor shall be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment in the county jail for not more than thirty (30) days or both by such fine and imprisonment.

ARTICLE 2. ALCOHOLIC LIQUOR

3-201 DEFINITIONS.

- (a) "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.
- (b) "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.
- (c) "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.
- (d) "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.
- (e) "Club" means a Class A or Class B club.
- (f) "Drinking Establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (g) "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.
- (h) "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 three and two-tenths percent (3.2%) alcohol by weight.
- (i) "Retailer" means an individual, partnership, corporation or other legal entity which sells alcoholic liquor for use or consumption off of and away from the premises specified in a license for the same.

- 3-202 APPLICATION. The foregoing definitions shall apply and be effective in regard to all of Article 2,3,4,5,6 and 7 of Chapter III of the Code of the City of Washington, Kansas, 1985.
- 3-203 POSSESSION OF ALCOHOLIC LIQUOR BY PERSON UNDER TWENTY-ONE YEARS OF AGE. It shall be unlawful for any person under the age of twenty-one (21) years to have in his possession upon any street, highway or public place within the corporate limits of the city, any alcoholic liquor whether the container thereof is open or unbroken and whether or not in the act of consuming the same. (Ord. 645 Sec. 3)
- 3-204 ASSIGNABILITY AND REFUND OF FEES. A license shall be purely a personal privilege, valid for not to exceed one (1) year after issuance, unless sooner suspended or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one (1) year after the death, bankruptcy or insolvency of such licensee.

No holder of a license under Chapter III of the Code of the City of Washington, Kansas, 1985, shall be entitled to any refund of a license fee paid for thereunder as a result of the license being surrendered or terminated for whatever reason, voluntary or involuntary.

ARTICLE 3. PRIVATE CLUBS (Ord. 633 Sec. 2)

- 3-301 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.
- 3-302 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 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 two hundred dollars (\$200) and the city license fee for a Class B club shall be two hundred dollars (\$200).
- (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.

3-303 BUSINESS REGULATIONS.

- (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of two o'clock (2:00) a.m. and nine o'clock (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 twenty-one (21) years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under twenty-one (21) years of age.

3-304 PENALTY. If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five (5) days' written notice to the person holding such license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license and the individual holding the license 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 \$499; or
- (b) Imprisonment in jail for not more than 179 days; or
- (c) Both such fine and imprisonment not to exceed (a) and (b) above.

ARTICLE 4. DRINKING ESTABLISHMENTS (Ord. 633 Sec. 2)

3-401 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.

3-402 LICENSE FEE.

- (a) There is hereby levied an annual license fee in the amount of two hundred dollars (\$200) 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.

3-403 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 two o'clock (2:00) a.m. and nine o'clock (9:00) a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for 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 twenty-one (21) years of age.

3-404 PENALTY. If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five (5) days written notice to the person holding such license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license and the individual holding the license 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 \$499; or
- (b) Imprisonment in jail for not more than 179 days; or
- (c) Both such fine and imprisonment not to exceed (a) and (b) above.

ARTICLE 5. CATERERS (Ord. 633 Sec. 2)

3-501 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.

3-502 LICENSE FEE.

- (a) There is hereby levied an annual license fee in the amount of ten dollars (\$10.00) 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.

3-503 BUSINESS REGULATIONS.

- (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of two o'clock (2:00) a.m. and six o'clock (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 twenty-one (21) years of age.

3-504 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 seventy-two (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.

3-505 PENALTY. If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five (5) days written notice to the person holding such caterer's license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license and the individual holding the license 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 \$499; or
- (b) Imprisonment in jail for not more than 179 days; or
- (c) Both such fine and imprisonment not to exceed (a) and (b) above.

ARTICLE 6. TEMPORARY PERMITS (Ord. 633 Sec. 2)

3-601 PERMIT REQUIRED. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve an alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk.

3-602 PERMIT FEE.

- (a) There is hereby levied a temporary permit fee in the amount of ten dollars (\$10.00) per day on each group or individual holding a temporary permit issued by the state 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.

3-603 CITY 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 local temporary permit at least three (3) 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 shall forward a copy of the permit and application to the chief of police.

3-604 PERMIT REGULATIONS.

- (a) No temporary permit shall allow the serving, mixing or consumption of alcoholic liquor between the hours of two o'clock (2:00) a.m. and six o'clock (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 twenty-one (21) years of age.

3-605 PENALTY. If the permit holder has violated any of the provisions of this ordinance, the governing body may revoke such temporary permit, and the individual holding the 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 \$499; or,
- (b) Imprisonment in jail for not more than 179 days; or
- (c) Both such fine and imprisonment not to exceed (a) and (b) above.

ARTICLE 7. GENERAL PROVISIONS (Ord. 633 Sec. 2)

3-701 PROPERTY EXEMPT UNDER K.S.A. 41-719. Under the authority of K.S.A. 41-719, the City of Washington, Kansas does hereby exempt all property, the title of which is vested in said city, from the prohibition against the consumption of alcoholic liquor upon said public property.

3-702 POSSESSION IN CERTAIN PLACES OF BUSINESS PROHIBITED. It shall be unlawful for any person to have in his possession any alcoholic liquor while on the premises of any place of business where cereal malt beverages are both sold and consumed.

3-703 TRANSPORTATION. It shall be unlawful for any person to transport in any vehicle upon a public highway, street or alley any alcoholic liquor except in the original package or container which shall not have been opened and the seal upon

which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened package or container be in the locked rear trunk or rear compartment or any locked outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion.

- 3-704 PENALTY. Any person who shall violate the provisions of Section 3-701 or 3-702 of this article shall upon conviction be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

ARTICLE 8. LICENSE REQUIRED, FEE, BUSINESS REGULATIONS, PENALTIES. (Ord. 692 Sec. 3)

- 3-801 LICENSE REQUIRED. It shall be unlawful for any individual, corporation, partnership or other legal entity granted a retailer's license by the state of Kansas to sell any alcoholic liquor authorized by such license within the City without first obtaining a license from the City Clerk.

3-802 LICENSE FEE.

- (a) There is hereby levied an annual license fee in the amount of \$200.00 on each retailer located in the City which has a retailer's license issued by the State Director of Alcoholic Beverage Control, which license 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 retailer license to be placed in plain view next to or below state license in a conspicuous place on the licensed premises.

3-803 BUSINESS REGULATIONS.

- (a) No retailer licensed hereunder shall sell at retail any alcoholic liquor: (1) on Sunday except between the hours of twelve o'clock (12:00) noon and eight o'clock (8:00) p.m. (excluding Easter Sunday); (2) Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted. (Ord. 702 Sec. 2)
- (b) No retailer shall permit (1) any person to mix drinks in or on the licensed premises; (2) to employ any person under the age of twenty-one (21) years in connection with the operation of such retail establishment; or (3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.
- (c) No retailer shall permit alcoholic liquor to be sold on any premises which have an inside entrance or opening which connects with any other place of business.

- (d) No retailer shall do any other act prohibited by the statutes of the state of Kansas now existing or hereafter amended.

3-804 PENALTY. If the licensee has violated any of the provision of this ordinance, the governing body of the City, upon five (5) days written notice to the retailer holding such license may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license and the retailer holding the license 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 \$499.99; or
- (b) Imprisonment in jail for not more than 179 days; or
- (c) Both such fine and imprisonment.