

## CHAPTER III. BEVERAGES

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### ARTICLE 1. GENERAL PROVISIONS

**3-101. DEFINITIONS.** As used in Articles 1 through 8, inclusive, the words and phrases herein defined shall have the following meanings:

- 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 corporations which sells alcoholic liquor by the individual drink, and provides services related to the serving thereto, 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. 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.
- d. 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 guest accompanying them.
- e. 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.
- f. Club - means a Class A or Class B club.
- g. Drinking Establishment - means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- h. 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.

**3-102. 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, school, nursing home, library, or hospital, said distance to be measured from the nearest property line of such church, school, nursing home, library or hospital, to the nearest portion of the building occupied by the premises.
- b. The distance location of subsection (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.

**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. 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 50 percent (50%) of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.

**3-104. CONSUMPTION ON PUBLIC PROPERTY.** No person shall drink or consume any alcoholic liquor on city owned public property. However, this prohibition shall not apply to the following:

- 1. Spring Hill Community Center;
- 2. Sycamore Ridge Golf Course at Spring Hill; and
- 3. Real property leased by the city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes, or purposes incidental thereto.

(00-07)

**3-105. PENALTY.** If the licensee or permit holder has violated any of the provisions of this ordinance, 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 two thousand five hundred dollars (\$2,500); or,  
(Ord. 2008-03)

- 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 2. DRINKING ESTABLISHMENTS**

**3-201. 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.

**3-202. LICENSE FEE.**

- a. There is hereby levied an annual license fee in the amount of \$150.00 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 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.

**3-203. 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.

**3-204. PENALTY.** If the license has violated any of the provisions of this ordinance, the governing body of the city, upon five 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 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 two thousand five hundred dollars (\$2,500); or,  
(Ord. 2008-03)
- 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 3. PRIVATE CLUBS.

**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 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 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 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.

**3-304. PENALTY.** If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five 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 30 days such license and the individual holding the license may be charged in municipal court with a violation of the alcoholic laws of the city and upon conviction shall be punished by:

- a. a fine of not more than two thousand five hundred dollars (\$2,500); or,  
(Ord. 2008-03)
- 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. CATERERS

**3-401. LICENSED 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.

### **3-402. LICENSE FEE.**

- a. There is hereby levied an annual license fee in the amount of \$150.00 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 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 of 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.

### **3-403. 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.

**3-404. 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, the exact date and times the caterer will be serving.

**3-405. PENALTY.** If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five days' written notice to the person holding such caterers license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 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 two thousand five hundred dollars (\$2,500); or,  
(Ord. 2008-03)
- 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. TEMPORARY PERMITS

**3-501. 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.

**3-502. 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 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 on the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

**3-503. 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 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 forward a copy of the permit and application to the chief of police.

**3-504. 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.

**3-505. PENALTY.** If the permit holder has violated any of 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 two thousand five hundred dollars (\$2,500); or,  
(Ord. 2008-03)

- 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. RETAILER OF ALCOHOLIC LIQUOR**

**3-601. DEFINITIONS.** As used in this article, the words and phrases herein defined, shall have the following meanings unless the context otherwise requires:

- a. Retailer - means any person who sells or offers for sale only at retail alcoholic liquor in original and unopened containers and not for consumption on the premises.
- b. Person - means an individual, firm, co-partnership, corporation or association.

**3-602. OCCUPATION TAX LEVIED.** There is hereby levied an annual occupation tax on each retailer of alcoholic liquor, including beer containing more than three and two tenths percent (3.2%) of alcohol by weight, for consumption off the premises, and sales in the original package only, the sum of two hundred dollars (\$200), on every retailer of alcoholic liquors in the City of Spring Hill who has a retailer's license issued by the State Director of Alcoholic Beverage Control; the tax herein levied shall be paid by the retailer to the city clerk of the city before business is begun under an original state license and shall be paid within five (5) days after any renewal of a state license.

**3-603. RECEIPT ISSUED.** The holder of a license for the retail sale of alcoholic liquors by the package, including beer, as aforesaid, in the city, 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 3-602 of this article and the tax shall be received and a receipt shall be issued for the period covered by the state license.

**3-604. RECEIPT POSTED.** Every licensee 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.

**3-605. HOURS OF SALE.** Pursuant to 2005 Kansas Session Laws, Chapter 201, no person, firm, partnership or corporation authorized to sell at retail any alcoholic liquor, within the corporate limits of the city, shall sell any alcoholic liquor before the hour of nine o'clock (9:00) a.m. or after the hour of eleven o'clock (11:00) p.m., on any day when the sale of alcoholic liquors are permitted. Sunday sales, except Easter, at retail of alcoholic liquor is only allowed between the hours of twelve o'clock noon (12 noon) and eight o'clock (8:00) p.m.  
(2005-19)

**3-606. DAYS OF SALE.** Pursuant to 2005 Kansas Session Laws, Chapter 201, no personnel shall sell at retail any alcoholic liquor in the City on the following days:

- a. Easter.
- b. Thanksgiving Day
- c. Christmas Day.

(2005-19)

**Penalties.** If the permit holder or licensee has violated any of the provisions of the Ordinance, the governing body of the city, upon five days written notice to the person holding such permit or license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license and individual holding the permit or license may be charged in municipal court with a violation of the alcoholic

law of the city and upon conviction shall be punished by:

A fine of not more than two thousand five hundred dollars (\$2,500); or (Ord 2008-03)

Imprisonment in jail for not more than 179 days; or

Both such fine and imprisonment not to exceed the above.

(2005-19)

## ARTICLE 7. CEREAL MALT BEVERAGES

**3-701. DEFINITIONS.** As used in this article, the words and phrases herein defined, shall have the following meanings unless the context otherwise requires:

- a. Cereal Malt Beverage - means any fermented but undistilled liquor brewed or made from a 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%) of alcohol by weight.
- b. Person - means an individual, firm, co-partnership, corporation or association.
- c. Place of Business - means any place at which cereal malt beverages are sold.
- d. Retailer - means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.
- e. Legal Age of Consumption of Cereal Malt Beverage - means twenty-one (21) years of age; except that "Legal Age of Consumption for Cereal Malt Beverage" shall mean eighteen (18) years of age if at any time the provision of PL98-363 penalizing states for permitting persons under twenty-one (21) years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.
- f. Club - means a Class A or Class B club licenses pursuant to Chapter 41 of Kansas Statutes.
- g. Drinking Establishment - means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- h. The Club and Drinking Establishment Act - means the provisions of Chapter 26 of K Statutes Annotated Chapter 41 and amendments thereto.

### **3-702. 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.

**3-703. APPLICATION.** 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:

- a. The name and residence of the application and how long he or she has resided within the State of Kansas;
- b. The particular place for which a license if 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 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 county health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the health code and/or ordinances of the city.
- 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 fire code and/or ordinances of the city.

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 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 application to determine whether he or she is qualified as a licensee under the provisions of this ordinance. The chief shall report to the Governing Body 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 current notification requirements.

**3-704. LICENSE APPLICATION PROCEDURES.**

- a. All applications for a new or renewal 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 any existing license 30 days in advance of its expiration.
- c. The city clerk 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 shall run a records check on all applicants and the fire department and health department will inspect the premises in accordance with city fire codes and/or ordinances. The departments will then recommend approval, or disapproval, of applications within five 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 been submitted 10 days in advance and been reviewed by the above city departments.
- e. An applicant who does not hold a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

**3-705. 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 license and the year for which issued.
- c. No license shall be transferred to another licensee.
- d. If the licensee shall be denied, the license fee shall be immediately returned to the person who has made application.

**3-706. LICENSE TO BE POSTED.** Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

**3-707. LICENSE, DISQUALIFICATION.** No license shall be issued to:

- a. A person who has not been a resident in good faith in the State of Kansas for at least one year immediately preceding application and a resident of Johnson County for at least six 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 years immediately preceding the date of 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 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 the aggregate more than 25 percent to 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 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 requires or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.

**3-708. 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 a 200-foot radius of any church, school or library.
- c. The 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.

**3-709. LICENSE FEE.** The license fees shall be as follows:

- a. General Retailer - for each place of business selling cereal malt beverages at retail for consumption on the premises, \$150.00 per calendar year.
- b. 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.

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.

**3-710. SUSPENSION OF LICENSE.** The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 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 days from the date of such order.

**3-711. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.** The governing body, upon five days' written notice to a person holding a license to sell cereal malt beverages, may permanently revoke or cause to be suspended such license for a period of not more than 30 days 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 ordinance;
- 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 the legal age for consumption;
- 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 purposes;
- 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 any alcoholic liquor, private club, or drinking establishment ordinance of the city;
- l. The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

**3-712. SAME; APPEAL.** The licensee, within 20 days after the order of the governing body revoking any license may appeal to the district court of Johnson 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 months thereafter.

**3-713. 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 of \$20.00. 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.

**3-714. 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 ordinance to sell the same within the city unless such wholesaler and/or distributor has first secured a license from the State of Kansas authorizing such sales.

**3-715. 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. Repealed by Ord. 2005-19
- d. Repealed by Ord. 2005-19
- 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 of Kansas 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 the legal age for consumption.
- 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.
- l. No private rooms or closed booths shall be operated in any place of business.

**3-715A. HOURS OF SALE.** Pursuant to 2005 Kansas Session Laws, Chapter 201:

- a. Except as provided by subsection (b), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:00 midnight and 6:00 a.m., 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. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.

Sunday sales, except Easter, at retail of cereal malt beverages is only allowed between the hours of 12:00 noon and 8:00 p.m.

(2005-19)

- b. Cereal malt beverages may be sold any time alcoholic liquor is allowed by the 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 of Kansas. (2005-19)

**3-715B. DAYS OF SALE.** Pursuant to 2005 Kansas Session Laws, Chapter 201, no personnel shall sell at retail any cereal malt beverages in the City on Easter. (2005-19)

**3-716. 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 or county health officers or designee.

**3-717. MINORS ON PREMISES.**

- a. It shall be unlawful for any person under the legal age of consumption 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 the legal age of consumption 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 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

**3-718. DECLARATION OF PUBLIC POLICY.** It is hereby determined by the governing body that the practice of joyriding and beer drinking, while aimlessly and idly driving around or parking on the highways, streets and public places in the city is detrimental to peace, order and tranquility, resulting frequently in breaches of the peace, recklessness, violence and infractions of the traffic ordinances of the city and of the Motor Vehicle Code of the State of Kansas, and that such practices are inimical to the public welfare.

**3-719. CONSUMPTION ON PUBLIC PROPERTY.**

- a. It shall be unlawful for any person to drink or consume cereal malt beverage upon the public streets, alleys, roads or highways or on or inside vehicles while on the public streets, alleys, roads or highways.
- b. It shall be unlawful for any person to drink or consume any cereal malt beverage on City-owned property. However, this prohibition shall not apply to the following property:
  1. Spring Hill Community Center;
  2. Sycamore Ridge Golf Course at Spring Hill;
  3. Real property owned by the City, or on real property leased by the City to others under the property leased by the City to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes, or purposes incidental thereto; and
  4. Real property owned by the City upon which a temporary permit to offer for the sale or consumption of cereal malt beverage has been granted by the City pursuant to 1-721. (00-07)

**3-720. PENALTY.** If the licensee or permit holder has violated any of the provisions of this ordinance, the governing body of the city, upon five days' written notice to a person holding a license or permit to sell cereal malt beverages, 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 cereal malt beverage laws of the city and upon conviction shall be punished by:

- a. a fine of not more than two thousand five hundred dollars (\$2,500); or, (Ord. 2008-03)
- b. imprisonment in jail for not more than 179 days; or
- c. both such fine and imprisonment not to exceed (a) and (b) above.

**3-721. TEMPORARY PERMITS**

**A. PERMIT REQUIRED.** A temporary permit shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

**B. PERMIT FEE.**

1. 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 city, which fee shall be paid before the event is begun under the City permit.

2. 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 on the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

**C. CITY TEMPORARY PERMIT.**

1. It shall be unlawful for any person to conduct an event under a City issued temporary permit without first applying for the temporary permit at least 3 days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
  - a. The name of the applicant;
  - b. the group for which the event is planned;
  - c. the location of the event and specific description of the premises;
  - d. the date and time of the event;
  - e. any anticipated need for police, fire or other municipal services.
2. 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.
3. 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.

**D. PERMIT REGULATIONS.**

1. 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.
2. No alcoholic beverages shall be given, sold or traded to any person under 21 years of age.

**E. PENALTY.** If the permit holder has violated any of 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 And Cereal Malt Beverage Code laws of the city and upon conviction shall be punished by:

1. a fine of not more than \$499; or,
2. imprisonment in jail for not more than 179 days; or,
3. both such fine and imprisonment not to exceed (a) and (b) above.

**ARTICLE 8. PUBLIC INTOXICATION AND DRUNKENNESS**

**3-801. PUBLIC INTOXICATION.** Public intoxication is being on highway or street or in a public place or public building while under the influence of intoxicating liquor, narcotics or other drug to the degree that one may endanger himself or other persons or property, or annoy persons in his vicinity and shall be considered a misdemeanor. Any person, upon conviction thereof, shall be fined a sum not exceeding five hundred dollars (\$500) or be imprisoned for a definite term of confinement which shall be fixed by the court and shall not exceed one (1) month. (K.S.A. Supp. 21-4109, 21-4502 and 21-4503)

**3-802. DRUNKENNESS.** If any person shall within the corporate limits of the city be drunk in his own house, or any private building or space, disturbing his family or others, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars (\$100), or be imprisoned for a period of not exceeding thirty (30) days.