

CHAPTER 3. BEVERAGES

Article 1.	General Provisions
Article 2.	Cereal Malt Beverages
Article 3.	Alcoholic Liquor
Article 4.	Private Clubs

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) 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 guests 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) General Retailer means a person who has a license to sell cereal malt beverages at retail.

(h) Limited Retailer means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(i) Place of Business. Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(j) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

(Ord. 424, Sec. 4-101; Code 1994; Code 2003)

- 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 500 feet of any church, school, nursing home, library, hospital, or licensed day care, said distance to be measured from the nearest property line of such church, school, nursing home, library, hospital, or licensed day care, 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, when the license 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 shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.
(Code 1994; Code 2003)
- 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.
- (b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of 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 premises derives not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(Code 1978, 4-302; Code 1994; Code 2003)
- 3-104. **CONSUMPTION ON PUBLIC PROPERTY.** No person shall drink or consume any alcoholic liquor or cereal malt beverage on city owned public property. However, this prohibition shall not apply to firehouse, which is property owned by the city.
(K.S.A. Supp. 41-719; Code 1978, 4-303; Code 1994; Code 2003)
- 3-105. **PUBLIC SALE; CONSUMPTION.** (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated.
(K.S.A. 41-719; Code 1994; Code 2003)

- 3-106. OPEN CONTAINER. (a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:
- (1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;
 - (2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;
 - (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b) As used in this section highway and street have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.
(K.S.A. 41-804, 41-2719; Code 1978, 4-305; Code 1994; Code 2003)
- 3-107. CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719, 41-2720; Cod 1978, 4-110; Code 1994; Code 2003)
- 3-108. 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 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.
- (Code 1994; Code 2003)

- 3-109. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.
(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor.
(K.S.A. Supp. 41-727; Code 1994; Code 2003)

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; Ord. 424, Sec. 4-102; Code 1994; Code 2003)

- 3-202. 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 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 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 may 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 provisions of chapter 8 of this code when requested by the governing body.
- (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 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 mayor 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. (Ord. 424, Sec. 4-103; Code 1994; Code 2003)

3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewal 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 applicant of an existing license 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 city-county 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 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. 424, Sec. 4-104; Code 1994; Code 2003)

3-203. LICENSE GRANTED; DENIED. (a) The journal of the governing body 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. 424, Sec. 4-105; Code 1994; Code 2003)

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. 424, Sec. 4-106; Code 1994; Code 2003)

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 year immediately preceding application and a resident of Cheyenne 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 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 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. 424, Sec. 4-107; Code 1994; Code 2003)

3-206.

RESTRICTION UPON LOCATION. (a) A license shall only be issued for the sale at retail of cereal malt beverage on premises which are located in areas zoned "business". No licenses shall be issued for the sale at retail of any cereal malt beverages on premises which are located in areas zoned "business/residential" or "residential".

(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 500-foot radius of any church, school or library.

(c) Provisions of this section shall not apply to any establishment holding a private club license 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; Ord. 424, Sec. 4-108; Code 1994; Ord 464 passed 11-8-1994; Code 2003)

3-207.

LICENSE FEE. The rules and regulations regarding license fees shall be as follows:

(a) General Retailer -- for each place of business selling cereal malt beverages at retail, \$75 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, \$75 per calendar year.

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.

(K.S.A. 41-2702; Ord. 424, Sec. 4-109; Code 1994; Code 2003)

3-208. 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.
(Ord. 424, Sec. 4-110; Code 1994; Code 2003)

3-209. LICENSE, SUSPENSION/REVOCAION BY GOVERNING BODY. The governing body of the city, upon five days' written notice to a person holding a license to sell cereal malt beverages, shall permanently revoke or cause to be suspended for a period of not more than 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 therefore;
- (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. 424, Sec. 4-111; Code 1994; Code 2003)

3-210. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the District Court of Cheyenne 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.
(K.S.A. 41-2708; Ord. 424, Sec. 4-112; Code 1994; Code 2003)

- 3-211. 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 \$25. 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. 424, Sec. 4-113; Code 1994; Code 2003)
- 3-212. 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. 424, Sec. 4-114; Code 1994; Code 2003)
- 3-213. 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) Except as provided by subsection (d), 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 12:30 a.m. and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage 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.
 - (d) Cereal mal 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 or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

(Ord. 424, Sec. 4-115; Code 1994; Code 2003)

3-214.

PROHIBITED CONDUCT ON PREMISES. The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(a) Remaining or permitting any 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 hair, anus, buttocks or genitals;

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

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

(d) Performing or permitting any 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 such persons' breasts, buttocks, anus or genitals.

(e) Using or permitting any 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 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 licensed by the city as a cereal malt beverage 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 persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 1994; Code 2003)

3-215.

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 health officer or designee.

(Ord. 424, Sec. 4-116; Code 1994; Code 2003)

3-216

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 30 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

(Ord. 424, Sec. 4-117; Code 1994; Code 2003)

3-217.

DECLARATION OF PUBLIC POLICY. It is hereby determined by the governing body that the practice of joyriding and parking on the highways, streets and public places in the city is detrimental to peace, order and tranquility, resulting frequently in breaches of 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.

(Ord. 424, Sec. 4-118; Code 1994; Code 2003)

3-218.

POSSESSION OF BEER BY THOSE UNDER THE LEGAL AGE FOR CONSUMPTION OF CEREAL MALT BEVERAGE PROHIBITED. It shall be unlawful for any person under the legal age for consumption of cereal malt beverage 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. 424, Sec. 4-119; Code 1994; Code 2003)

3-219.

TRANSPORTATION OF PERSON UNDER THE LEGAL AGE FOR CONSUMPTION OF CEREAL MALT BEVERAGE WITH BEER PROHIBITED. It shall be unlawful for any person under the legal age for consumption of cereal malt beverage to drive or ride as a passenger or for any person to so transport any person under the legal age of consumption of cereal malt beverage as a passenger or for any person to so transport any person under the legal age for consumption of cereal malt beverage, in or upon any motor vehicle on the streets, highways, or public places within the corporate limits of the city in which cereal malt beverages are being transported in open containers.

(Ord. 424, Sec. 4-120; Code 1994; Code 2003)

3-220. PUBLIC INTOXICATION. It shall be unlawful for any person to be drunk or in a state of intoxication to such extent as to not have control of his or her faculties, to a degree which may endanger themselves or others on any street, or public place within the corporate limits of this city. The Police Chief and all police officers shall have the authority to arrest any person whom they reasonably believe is in this violation of this ordinance and shall commit such person to jail, or other such authorized place until that person has reached sobriety. At that point, that person will be afforded the opportunity to a bail or appearance in front of the Municipal Judge or designee to be dealt with according to the law. A person convicted of a violation of this ordinance shall be punished by a fine in the amount of not less than \$50 nor more than \$100.
(Ord. 495, passed 7-7-1998; Code 2003)

ARTICLE 3. ALCOHOLIC LIQUOR

3-301. 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 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Code 1978, 4-201, 203; Code 1994; Code 2003)

3-302. OCCUPATIONAL TAX. There is hereby levied an annual occupation tax of \$300 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 days after any renewal of a state license.

(Code 1978, 4-202; Code 1994; Code 2003)

3-303. 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 1978, 4-204; Code 1994; Code 2003)

3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:

(a) On any Sunday;

(b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;

(c) After 11:00 p.m. on any day when the sale of such alcoholic liquor is permitted by the laws of the State of Kansas, or before 9:00 a.m. on any day when the sale thereof is permitted.

(K.S.A. 41-712; Code 1978, 4-301; Code 2003)

3-305. 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.

(Code 1994; Code 2003)

3-306. 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 1994; Code 2003)

ARTICLE 4. PRIVATE CLUBS

3-401. LICENSE REQUIRED. It shall be unlawful for any person granted a private club license or drinking establishment liquor 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. (Ord. 410, Sec. 4-501; Code 1994; Ord. 508, passed 5-22-2001; Code 2003)

3-402. LICENSE FEE; PRIVATE CLUB. (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 private club license shall be \$175.

- (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 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 private club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Ord. 410, Secs. 4-502:504; Code 1994; Ord. 508, passed 5-22-2001; Code 2003)

3-403.

LICENSE FEE; DRINKING ESTABLISHMENTS. (a) There is hereby levied an annual license fee on each drinking establishment located in the city which has a liquor 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 drinking establishment shall be \$175.

(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 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.

(K.S.A. Supp. 41-2614; Code 1994; Ord. 508 passed 5-22-2001; Code 2003)

3-404.

BUSINESS REGULATIONS. (a) No private club or drinking establishment hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(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.

(K.S.A. Supp. 41-2614; Code 1994; Ord. 508, passed 5-22-01; Code 2003)