

CHAPTER 3. BEVERAGES

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ARTICLE 1. CEREAL MALT BEVERAGES

3-101. A. **DEFINITIONS.** The terms used in this chapter, unless clearly indicated otherwise, shall have the meanings indicated in K.S.A. 41-102, 41-343, 41-803, 41-2601, and 41-2701, as amended from time-to-time.

B. **REQUIRED LOCAL LICENSES.** The following local licenses are required and are referenced in this Chapter:

1. Cereal Malt Beverages
2. Alcoholic Liquor Stores
3. Private A and B Clubs.
4. Drinking Establishments.
5. Caterers.
6. Temporary Permits.

3-102. **GEOGRAPHIC LOCATION.** This entire Chapter pertains to the corporate city limits.

3-103. **LOCAL LICENSE OR PERMIT REQUIRED.**

(a) It shall be unlawful for any person to sell any alcoholic or cereal malt beverage at retail without a local license or permit for the particular place of business, for the particular beverage sold at retail, and in full compliance with State law.

(b) It shall be unlawful for any person, having a local license to sell cereal malt beverages at retail other than in the original and unopened containers and not for consumption on the premises, unless they have a license to permit carry-out of cereal malt beverages in original and unopened containers.

3-104. **APPLICATION.**

(a) Any person desiring a local license or permit for alcohol or cereal malt beverages shall make an Application for a local license for the location and for the beverage they so desire to the City Clerk on the Application form approved by the City Manager. Before receiving an Application form, the person shall present the original license or permit from the State of Kansas, if required, for the location and beverage for which the person desires the license or permit from the City of Liberal. All Applications for a local license or permit shall be verified by the applicant.

(b) Each Application shall be accompanied by a certificate from the City Fire Chief that the premises to be licensed have been inspected in the last 60 days and comply with all fire and life safety codes, and a certificate from the Building Inspector

that the premises to be licensed have been inspected in the last 60 days and comply with all building codes for the proposed use.

(c) After the Application is submitted to the City Clerk, the City will investigate the applicant to determine whether he or she is qualified to hold a license or permit. Due to the necessity of such an investigation through data bases over which the City of Liberal has no control, the processing for an Application can only be done in a reasonable manner and time and the applicant will be given notice of when the Application will be considered by the governing body.

(d) A license or permit is specific to an individual applicant and to particular premises, and the license or permit cannot be transferred to another individual or transferred to different premises or expanded premises.

(e) The license or permit fee for each Application shall be set during the approval of the budget annually.

3-105. INSURANCE. All licensees shall provide and maintain insurance as required on the application and failure to do so shall be a Class B violation and loss or suspension of license by the Municipal Court Judge.

3-106. PENALTIES; LOSS OF LICENSE OR PERMIT.

(a) Violation of the local license shall result in a fine of up to \$2,500 and loss or suspension of the local license by the Municipal Court Judge.

(b) Violation of the local permit shall result in a fine of up to \$1,000 and loss or suspension of the local license by the Municipal Court Judge.

(c) Violation of any other provisions of this article shall result in a fine of up to \$1,000 and loss or suspension of the local license by the Municipal Court Judge.

3-107. CITY LICENSE OR PERMIT TO BE POSTED. Each license and permit shall be posted in a conspicuous place in the place of business for which the license or permit is issued.

3-108. RESTRICTION UPON LOCATION.

(a) No license shall be issued for the sale at retail of any cereal malt beverage or alcohol on premises which are located in areas not zoned for such purpose.

(b) No license shall be issued for the sale at retail of any cereal malt beverage or alcohol for consumption on the premises located within 200 feet (200') of any church building, school building, library building or hospital building. (2015, Ord. 4447)

(c) It shall be unlawful for any person or persons to sell cereal malt beverages for consumption on the premises.

(1) Except in the Plaza Heights Addition; and

(2) Except on Block 2, Country Club Acres Subdivision Plat No. 1; and

(3) Except on Kansas Avenue south from the railroad tracks to the city limits; and

(4) Except on Lots 19 and 20, Block 34, Original Town (now city) of Liberal, Kansas; and

(5) Except on Lots 16, 17 and 18, Block 27, Original Town (now city) of Liberal, Kansas; and

(6) Except on Pancake Boulevard (U.S. Highway 54); and

(7) Except on Lots 1, 2, 3, 4, 5 and 6, Block 9, Original Town (now city), of Liberal, Kansas; and

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- (8) Except on Lots 7 and 8, Block 27, Original Town (now city) of Liberal, Kansas; and
- (9) Except on Lots 13, 14 and 15, Block 13, Baughman's First Addition; and
- (10) Except on Lots 15 and 16, Block 1, Airport Industrial Park Addition; and
- (11) Except on Lots 4-9, Block 2, Equity Addition; and
- (12) Except on Lots 1-4 and the North 23.99 feet (N 23.99') of Lot 5, Block 13, Eastboro Addition; and
- (13) Except on Lot 4, Block 33, Original Town (now city) of the City of Liberal, Kansas; and
- (14) Except on the South 4' of Lot 12 and all of Lot 13, Block 9, Original Town (now city) of Liberal, Kansas.

(d) No license shall be granted to sell cereal malt beverages in the prohibited zones except in original and unopened containers and not for consumption on the premises. Sale of cereal malt beverages not for consumption on the premises, shall be allowed at any place within the city limits zoned accordingly.

(e) 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. (2002, Ord. 4265; 2003, Ord. 4275; 2004, Ord. 4288; 2015, Ord. 4447)

3-109. **SUSPENSION OF LICENSE.** The chief of police or acting chief, shall have the authority to immediately suspend such license for a period not to exceed 7 days for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or alcohol. Notification of such immediate suspension shall be given to the City Clerk by the next working day. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

3-110. **LICENSE FEE.** Fees are established annually in the budget resolution and are shown in Exhibit C-301.

3-111. **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 therefor;

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

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

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

(e) For permitting any unlicensed 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;

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- (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) For any violation of the fire, life safety or building codes; or
- (m) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

3-112. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Seward 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.

3-113. 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) or (e), no cereal malt beverages or liquor may be sold, dispensed or consumed on the premises 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., or anytime on Sunday, however, Sunday sales for consumption on the premises may occur between the hours of 6:00 a.m. and 12:00 midnight in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, which place of business derives not less than 30 percent (30%) of its gross receipts from the sale of food for consumption on the business premises; closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto. (2005, Ord. 4306)

The City may require records, audits, verifications, affidavits, or any other information necessary to verify the annual gross sales of food for any applicant or renewal licensee including, upon demand, the right to inspect the record books of said establishment. The failure of a licensee to provide said records within a reasonable time after a request therefore by the City shall be grounds for revocation of the licensee's cereal malt beverage license. (2005, Ord. 4306)

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

(e) It shall be unlawful for any retailer of alcoholic liquor to sell at retail any alcoholic liquor within the corporate limits of the city:

- (1) On the first day of the week, commonly called Sunday;

(2) On legal holidays, to wit: Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;

(3) On any day when the sale is permitted before 9:00 a.m. or after 9:00 p.m., except that on Saturdays, days preceding legal holidays, and on New Years Eve, the closing hour shall be 10:00 p.m.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

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

(m) No private rooms or closed booths shall be operated in the place of business for any illegal activity.

(n) All licenses shall keep an "open front" to their place of business during the hours in which the selling of cereal malt beverages is permitted.

3-114. **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.

3-115. **QUIET, GOOD ORDER MAINTAINED.** The licensee shall maintain quiet and good order upon the premises licensed including the parking area of the licensed premises, and shall not permit disorderly conduct or loitering upon the premises. The licensee shall not cause, permit, or create any noise or other nuisance on the parking area of the licensed premises whereby the quiet and good order of the premises or of the neighborhood is disturbed and shall at all times keep the parking area as well as adjacent streets, alleys and adjoining property in the vicinity of the licensed free and clear of bottles, cans and other debris.

3-116. PENALTY.

(a) Any person whether as principal, agent or employee, who violates or aids, abets or participates in the violation of this article, upon conviction, be fined in any sum not less than \$100 nor more than \$1,000, or be imprisoned not exceeding 90 days, or both, at the discretion of the court.

(b) In addition to the penalties in subsection (a), the governing body may suspend the license of a licensee for violations of this article not to exceed 180 days for a third and subsequent violations.

ARTICLE 2. ALCOHOLIC LIQUOR

3-201. LICENSE. It shall be unlawful for any person to keep, offer or expose for sale or sell any alcoholic liquor as defined by the Kansas Liquor Control Act without first having procured a license to do so as required by the act.

3-202. AMOUNT OF FEE OR TAX. Any licensee holding a license for any of the purposes hereafter mentioned issued by the state director of alcoholic beverage control shall pay an annual occupation tax to the city. The tax shall be paid before business is begun under an original state license and within five days after the renewal of a state license. Fees are established annually in the budget resolution and are shown in Exhibit C-302.

3-203. MINORS AND INCOMPETENTS.

(a) No person shall knowingly or unknowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any minor; and no such minor shall represent that he or she is of age for the purpose of asking for, purchasing, or receiving alcoholic liquor from any persons, except in cases authorized by law.

(b) For the purpose of this chapter, minor shall mean any person under 21 years of age.

(c) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is mentally incompetent, or any person who is physically or mentally incapacitated by the consumption of such liquor.

(d) Any person violating any of the provisions of this section shall, upon conviction thereof, shall be punished by a fine of not more than \$200 or by imprisonment for not to exceed 30 days or both such fine and imprisonment in the discretion of the court.

3-204. MISREPRESENTING AGE. It shall be unlawful for any person to furnish, loan or give to another person an identification card, driver's license, or other written document, for use in misrepresenting or falsifying age for the purpose of asking for, purchasing, or receiving alcoholic liquor.

3-205. PROHIBITED CONSUMPTION PLACES. It shall be unlawful for any person to drink or consume alcoholic liquor upon the public streets, sidewalks, alleys, roads or highways, or in beer parlors, taverns, pool halls, or places to which the general public

has access, whether or not an admission or other fee is charged or collected, or upon property owned by the state or any governmental subdivision thereof or inside vehicles while upon the public streets, alleys, roads or highways.

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. Fees are set annually in the budget resolution and are shown in Exhibit C-303.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, and payment of the city license fee, 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.

ARTICLE 4. DRINKING ESTABLISHMENTS

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 local license from the city clerk.

3-402. LICENSE FEE.

(a) There is hereby levied an annual license fee on each drinking establishment located in the city which has a drinking establishment 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. Fees are set annually in the budget resolution and are shown in Exhibit C-304.

(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 completed 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 and after an investigation.

(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 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 also allowed by law to be served on the premises.

(b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age, and no person shall be admitted to a drinking establishment, unless accompanied by a parent or guardian 21 years of age or more.

ARTICLE 5. CATERERS

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 per event 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 any catering business is done. Fees are set annually in the budget resolution and are shown in Exhibit C-305.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, and payment of the city license fee and the completed application, the city clerk shall issue a city license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city and after an investigation.

(c) The license period shall extend for the period covered by the event being catered.

(d) Every licensee shall cause the city catering license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

3-503. 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 11:00 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.

3-504. 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 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.

ARTICLE 6. TEMPORARY PERMITS

3-601. 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 by the city without first obtaining a local temporary permit from the city clerk.

3-602. RESTRICTION UPON LOCATION.

(a) No license shall be issued for the sale at retail of any cereal malt beverage or alcohol on premises which are located in areas not zoned for such purpose.

(b) No license shall be issued for the sale at retail of any cereal malt beverage or alcohol for consumption on the premises located within 200 feet (200') of any church building, school building, library building or hospital building. (2015, Ord. 4447)

(c) It shall be unlawful for any person or persons to sell cereal malt beverages for consumption on the premises.

(1) Except in the Plaza Heights Addition; and

(2) Except on Block 2, Country Club Acres Subdivision Plat No. 1; and

(3) Except on Kansas Avenue south from the railroad tracks to the city limits; and

(4) Except on Lots 19 and 20, Block 34, Original Town (now city) of Liberal, Kansas; and

(5) Except on Lots 16, 17 and 18, Block 27, Original Town (now city) of Liberal, Kansas; and

(6) Except on Pancake Boulevard (U.S. Highway 54); and

(7) Except on Lots 1, 2, 3, 4, 5 and 6, Block 9, Original Town (now city), of Liberal, Kansas; and

(8) Except on Lots 7 and 8, Block 27, Original Town (now city) of Liberal, Kansas; and

(9) Except on Lots 13, 14 and 15, Block 13, Baughman's First Addition; and

(10) Except on Lots 15 and 16, Block 1, Airport Industrial Park Addition; and

(11) Except on Lots 4-9, Block 2, Equity Addition; and

(12) Except on Lots 1-4 and the North 23.99 feet (N 23.99') of Lot 5, Block 13, Eastboro Addition; and

(13) Except on Lot 4, Block 33, Original Town (now city) of the City of Liberal, Kansas; and

(14) Except on the South 4' of Lot 12 and all of Lot 13, Block 9, Original Town (now city) of Liberal, Kansas.

(d) No license shall be granted to sell cereal malt beverages in the prohibited zones except in original and unopened containers and not for consumption on the premises. Sale of cereal malt beverages not for consumption on the premises, shall be allowed at any place within the city limits zoned accordingly.

(e) The distance limitation of subsection (c) 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.

3-603. PERMIT FEE.

(a) There is hereby levied a temporary permit fee 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. Fees are set annually in the budget resolution and are shown in Exhibit C-306.

3-604. APPLICATION; 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 10 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 completed 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 and after an investigation.

(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.

3-605. 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 beverage shall be given, sold or traded to any person under 21 years of age.