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**ARTICLE I. IN GENERAL**

**Sec. 4-101 Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic liquor*- means, as defined by the Kansas Liquor Control Act, alcohol, spirits, wine and 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.

*Case retailer*- means a licensee who has a license to sell only at retail cereal malt beverages in original and unbroken case lots or original and unbroken cartons of cans or bottles as originally packaged by the manufacturer but not for consumption on the premises.

*Cereal malt beverage*- means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or substitute, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

*Food service establishment* - shall mean a business which possesses a valid Kansas food service establishment license pursuant to K.S.A. 36-502 et seq. and whose owner(s) seeks to use a portion of the City owned sidewalk for dining purposes.

*Highways and parking lots*- means and includes streets, alleys and public ways of the City, State and Federal highways within the Corporate Limits of the City, offstreet parking facilities of businesses, churches and schools, private parking areas specifically designed for the parking of motor vehicles, public parks, public playgrounds, church playgrounds, school and church driveways, service stations, food and beverage drive-ins, drive-in laundries, and automobile, implement and machinery sales display lots.

*Legal age for consumption of cereal malt beverage or alcoholic liquor*- means 21 years of age.

*Licensee*- means a "person" as defined in this Code who has a license as required in this Chapter. "Licensee" shall mean the owner of a food service establishment that obtains a sidewalk dining license pursuant to the Ordinance No. 3281-98.

*Minor*- means any person who has not attained the age of 21 years of age.

*Motor vehicles*- means and includes every vehicle which is self-propelled.

*Person*- means any individual, firm, partnership, corporation or association.

*Place of business*- means any place at which cereal malt beverages or alcoholic liquor is sold.

*Private club*- means and includes every individual or organization currently licensed by the State Director of Alcoholic Beverage Control as a private club, and such term shall also include every place or premises named in such license.

*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. The term includes a licensee who has a license to make retail sales.

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*Sidewalk* - shall mean City owned right-of-way or easement that adjoins the property line of the food service establishment.

*Tavern*- means a place of business which derives over fifty (50) percent of its gross income from the retail sale of cereal malt beverages which may legally be consumed on the premises.

*Wholesaler or distributor*- means individuals, firms, partnerships, corporations and associations which sell or offer for sale any beverage referred to in this Chapter to persons, partnerships, corporations and associations authorized by this Chapter to sell cereal malt beverages at retail, and shall also mean any person who shall engage in delivering such beverages to a retailer in the City.

**REVISED:** (*Ord. No. 3281-98, 08-05-98*)

**Cross reference**-Definitions and rules of construction generally, § 1-101.

**State law reference**-Definitions, K.S.A. 41-102, 41-803 (b), 41-2601, 41-2701.

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**ARTICLE II. ALCOHOLIC LIQUOR**

**Sec. 4-201 Sales prohibited; penalty.**

- A. It shall be unlawful for any person to keep for sale, offer for sale, expose for sale, or sell within the City, any alcoholic liquor as defined by the Kansas Liquor Control Act, unless licensed pursuant to this Chapter.
- B. Any person who shall violate any of the provisions of this section shall be deemed guilty of a Class B Misdemeanor.

*(Code 1982)*

**State law reference**-City option, K.S.A. 41-302.

**Sec. 4-202 Sale to persons under legal age for consumption of alcohol prohibited; penalty.**

- A. It shall be unlawful for any person, knowingly or unknowingly, to sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of, any alcoholic liquor as defined by the Kansas Liquor Control act to any person under 21 years of age.
- B. Any person who shall violate any of the provisions of this section shall, upon conviction, be guilty of a Class B Misdemeanor with a minimum fine of \$200.00.

*(Code 1982)*

**State law reference**-Furnishing alcoholic liquor to a minor, K.S.A. 21-3610.

**Sec. 4-203 Sale to persons under legal age; misrepresentation of age; penalty.**

- A. It shall be unlawful for any person under 21 years of age to represent that s/he is of age for the purpose of asking for, purchasing or receiving alcoholic liquor from any person. Any minor violating this section shall be deemed a miscreant and shall be referred to proper juvenile authorities.
- B. Any person 18 years of age or older who shall violate this Section shall, upon conviction, be guilty of a Class B Misdemeanor.

*(Code 1982)*

**State law reference**-Alcoholic liquor, K.S.A. 41-301 et seq.

**Sec. 4-204 Sale to incompetents prohibited; penalty.**

- A. It shall be unlawful for any person to knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of, any alcoholic liquor, as defined by the Kansas Liquor Control Act, to or for any person who is mentally incompetent, or physically or mentally incapacitated by the consumption of alcoholic liquor.

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- B. Any person who shall violate any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than \$100.00 and not exceeding \$250.00 or imprisonment not exceeding 30 days, or both such fine and term of imprisonment.

*(Code 1982)*

**State law reference**-Sale of liquor to incompetent or intoxicated persons, prohibited, K.S.A. 41-715.

**Sec. 4-205 Unlawful to transport alcoholic liquor in open containers; open container defined; penalty.**

- A. It shall be unlawful for any person to transport in any vehicle on any public highway, street or alley any alcoholic liquor, except in the original package or container which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened package or container shall be in the locked rear trunk or rear compartment of the vehicle, or any locked outside compartment which is not accessible to the driver or any other person in such vehicle while such vehicle is in motion.
- B. Any person who violates this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than \$200.00 or by imprisonment for not more than six months, or both such fine and term of imprisonment.

*(Code 1982)*

**State law reference** -Transportation of liquor in open container, K.S.A. 41-804.

**Sec. 4-206 Consumption of alcoholic liquor, etc.; penalty.**

Any person who shall drink or consume alcoholic liquor or have in his possession an open container of alcoholic liquor as defined in Section 4-205 upon the public highways or parking lots in the City 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 which is owned by the State of Kansas or any governmental subdivision thereof in the City, or any person who shall drink or consume alcoholic liquor or have in his possession an open container of alcoholic liquor as defined in Section 4-205 while in any motor vehicle upon the highways or parking lots, shall, upon conviction, be guilty of a Class C Misdemeanor punishable by a fine of not less than \$50.00 or more than \$200.00 or by imprisonment for not more than six months, or both such fine and term of imprisonment.

*(Code 1982)*

**Cross reference**-Streets and Public Places, Ch. 70.

**State law reference**-Consumption of alcoholic liquor in public places, K.S.A. 41-719.

**Sec. 4-207 Open saloon prohibited; penalty.**

- A. It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon.

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- B. Any person who shall violate this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than \$500.00 and by imprisonment of not more than 90 days.

*(Code 1982)*

**State law reference**-Open saloon, K.S.A. 41-803.

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**ARTICLE III. CEREAL MALT BEVERAGES**

**Sec. 4-301 License required of retailers.**

No person shall sell any cereal malt beverage at retail without first having secured a license for each place of business which such person desires to operate within the Corporate Limits of the City. A person having a license to sell cereal malt beverages at retail only in original and unopened containers, and not for consumption on the premises, shall not sell such beverages in any other manner.

*(Code 1982)*

**State law reference**-License required, K.S.A. 41-2702.

**Sec. 4-302 License fees.**

- A. There are hereby prescribed license fees as follows:
1. *Retailer, consumption on premises*- For each place of business selling cereal malt beverages at retail for consumption on the premises, \$125.00 per calendar year.
  2. *Case 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, \$75.00 per calendar year.
- B. A license and the full amount of the license fee shall be required each year, 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. If a corporate licensee has a change of managers, a new license is required and the new manager's license fee shall be the same as the original fee for the remaining portion of the year.

*(Code 1982)*

**State law reference**-License fees, K.S.A. 41-2702 (d).

**Sec. 4-303 Application for license.**

Any person desiring a license under this article shall make an application to the Board of Commissioners by filing an application with the City Clerk, such application to be accompanied by the required license fee for each place of business for which the person desires the license. All application fees shall be retained by the City, regardless of the approval or rejection of the application, and credited to the general fund. Such application, together with the recommendations of the Administrative Staff of the City, shall be presented to the Board of Commissioners, which shall thereafter approve or reject the application within 30 days of the date such application is presented. 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, residence address and the length of residence in Ottawa, Franklin County, State of Kansas, of the applicant.
- B. The particular place for which a license is desired.

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- C. The name of the owner of the premises upon which the place of business is located.
- D. A statement that the applicant is a citizen of the United States and not less than 21 years of age and that s/he has not, within two (2) years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor, or the violation of any other intoxicating liquor law or any crime involving moral turpitude of any state or of the United States.

*(Code 1982)*

**State law references**-Cereal malt beverages, K.S.A. 41-2701 et seq.; authority to regulate limited, K.S.A. 41-2704 (a).

**Sec. 4-303A Application fee.**

- A. The City, by the power vested in it by Article 12, Section 5, of the State Constitution, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 41-2702, which provisions apply to this City but not uniformly to all cities, and to provide substitute and additional provisions as set forth in this section.
- B. The City is hereby authorized and empowered to provide by regular ordinance the fee to be charged for issuance of cereal malt beverage licenses. Each application for a retailer's license shall be accompanied by a fee as follows: for licensure of a place of business in a county having a population of 165,000 or less, a fee or not less than \$25.00 or more than the amount prescribed by ordinance by the Board of Commissioners.

**REVISED:** *(Ch. Ord. No. 9, 10-03-84)*

**Sec. 4-304 Examination; approval or rejection of application.**

If an application for a license is in proper form and accompanied by cash in the amount of the license fee, the Board of Commissioners shall, if the applicant is qualified as provided by law, issue a license to such applicant. Provided, that no retailer's license shall be issued to:

- A. A person who is not a resident of Franklin County and who has not been a resident in good faith of the State of Kansas for at least one (1) year to said application.
- B. A person who is not of good character and reputation in the community in which such person resides.
- C. A person who is not a citizen of the United States.
- D. A person who, within two (2) years immediately preceding the date of application, has been convicted of a felony, or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or cereal malt beverage law, or violation of any other intoxicating liquor law of the State of Kansas or of the United States.
- E. A partnership, unless one of the partners is a resident of the City of Ottawa and unless all members of such co-partnership shall otherwise be qualified to obtain a license.

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- F. A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five (25) percent of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than non-residence within the City of Ottawa.
- G. A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses all the qualifications of a licensee.

*(Code 1982)*

**State law reference**-Similar provisions, K.S.A. 41-2703(b).

**Sec. 4-305 License restrictions; posting, penalty.**

- A. No license under this article shall be issued unless the place of business can comply with all restrictions and provisions in regard to location and zones. A person applying for a license as a case retailer must be engaged in business in this City. No licenses issued under this article shall be assignable or transferable. All licenses shall be kept posted in a conspicuous place in the place of business.
- B. A violation of this section is a Class A Misdemeanor.

*(Code 1982)*

**Sec. 4-306 Hours of operation; private rooms; accessibility; restrictions on persons not of legal age to purchase; penalty.**

- A. No cereal malt beverages may be sold, given away or consumed at any place of business between the hours of 12:00 midnight and 6:00 a.m.
- B. No cereal malt beverages may be sold, given away or consumed at any place of business 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 thirty (30) percent of its gross receipts from the sale of food for consumption on the licensed premises.
- C. No private rooms or closed booths shall be permitted, but this provision shall not apply if the licensed premises are also currently licensed as a Club under a license issued by the State Director of the Alcoholic Beverage Control. Said place of business shall be open to the public and to the Police Department at all times during business hours, except that a premises licensed as a Club under a license issued by the State Director of Alcoholic Beverage Control shall be opened to the Police Department and not the public. A person not of legal age to purchase cereal malt beverage shall not be permitted to buy or to drink any such cereal malt beverage.
- D. A violation of this section is a Class A Misdemeanor.

**REVISED:** *(Code 1982; Ord. 3148-95, 05-17-95)*

**State law references**-Hours and days of sale, K.S.A. 41-2704(b); permitting consumption of beverages by persons under legal age prohibited, K.S.A. 41-2704 (e).

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**Sec. 4-307      Location restrictions.**

Section 1.      No cereal malt beverage license shall be issued by the City to a bar, tavern or drinking establishment that is located within 200 feet of an accredited school building or an organized church building.

- A.      This location restriction shall not apply to restaurants, as that term is defined in K.S.A. 41-2601(o) (1), (2) and (3).
- B.      The location restriction contained in this code section shall not apply if the accredited school or organized church is established after the premises have been licensed. In such cases the premises shall be eligible for re-issuance of future licenses.
- C.      In situations where, as of enactment of this ordinance, there are existing violations of the location restriction contained in this section, such violation shall not constitute a reason to not re-issue a license.
- D.      Distances measured under this section shall be measured from property line of the protected property to the nearest portion of the building occupied by the license holder.

Section 2.      The distance location of subsection (1) above shall not apply to a bar, tavern, 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.

Section 3.      No license or permit shall be issued for the sale of cereal malt beverage if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other applicable city laws, including building and health codes.

Section 4.      No license or permit shall be issued for the sale of cereal malt beverage until the building or use meets the City's most recently adopted Fire and Life Safety Code.

**REVISED:** (*Ord. No. 3457-03, 10-15-03*)

**Sec. 4-308      Sale to person not of legal age for consumption of cereal malt beverage-Prohibited; penalty.**

- A.      It shall be unlawful for any person, knowingly or unknowingly, to sell, give away, dispose of, exchange or deliver, or permit the sale, gift, or procuring of, any cereal malt beverage to or for any person who is not of legal age for consumption of cereal malt beverages.
- B.      Any person who shall violate any of the provisions of this section shall be deemed guilty of a Class B Misdemeanor.

(*Code 1982*)

**State law reference**-Purchase or consumption of alcoholic beverages by persons not of legal age, K.S.A. 41-2721.

Changed 10/30/03

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**Sec. 4-309 Sale to person not of legal age for consumption of cereal malt beverage- prohibited; Purchaser's representation.**

- A. It shall be unlawful for any person not of legal age to consume cereal malt beverages, to represent that s/he is of age for the purpose of asking for, purchasing or receiving cereal malt beverages from any person.
- B. Any person violating this section shall, upon conviction, be guilty of a Class C Misdemeanor with a minimum fine of \$100.00, if the person is over the age of 18.
- C. Any minor violating this section shall be referred to proper juvenile authorities.

*(Code 1982)*

**State law reference**-Purchase or consumption of cereal malt beverages by persons not of legal age, K.S.A. 41-2721.

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**Sec. 4-310        Taverns; records to be made available for inspection.**

Any establishment holding a license for the sale of cereal malt beverages shall open its books and records for the Police Department or any other Authorized Agent of the City for the purpose of determining whether such establishment is a tavern. Such determination shall be based upon the most recent calendar month such business operated, except if such business has not been in operation for one (1) calendar month, then the period the business has been operated shall be used for such determination.

**REVISED:** (*Ord. No. 2962-90, 12-27-90*)

**State law reference-**Establishments open to inspection, K.S.A. 41-2704 (d).

**Sec. 4-311        Persons under legal age for consumption of cereal malt beverages; taverns.**

- A. It shall be unlawful for any person under the legal age for consumption of cereal malt beverages to enter into a tavern, as that term is defined, unless accompanied by a parent or a legal guardian.
- B. Any person in violation of this section shall be guilty of a Class C Misdemeanor if that person is 18 years of age or older.
- C. Minors in violation of this section shall be referred to proper juvenile authorities.

**REVISED:** (*Ord. No. 2901-88, 11-16-86*)

**Sec. 4-312        Revocation of license; appeal.**

- A. The Board of Commissioners, after five (5) days' notice to the persons holding such license, shall revoke such license for any one of the following reasons:
  - 1. If the licensee has fraudulently obtained the license by giving false information in the application therefore.
  - 2. If the licensee has violated any of the provisions of this ordinance or any other ordinance of the City prescribing rules or regulations relating to cereal malt beverages as herein defined, or if a licensee had violated any law of the State for which violation the City is authorized by law to revoke the license.
  - 3. If the licensee has become ineligible to obtain a license as prescribed in this ordinance.
  - 4. Drunkenness of the person holding such license or permitting any intoxicated person to remain in such place of business.
  - 5. The sale of cereal malt beverages to those under the legal age for consumption of cereal malt beverages.
  - 6. The nonpayment of any license fees.
  - 7. For permitting any gambling in or upon such premises.

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8. For permitting any person to mix drinks with materials purchased in such place of business or brought in for such purpose, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the State Director of Alcoholic Beverage Control.
  9. For employment of person under 18 years of age in dispensing cereal malt beverages;
  10. For the employment of persons who have been adjudged guilty of a felony or of any violations of the intoxicating liquor law.
- B. Within twenty (20) days after the order of the Board of Commissioners revoking or suspending any license, the licensee may appeal to the District Court as provided in K.S.A. 41-2708 (c).
- C. In case of the revocation of the license of any licensee, no new license shall be issued to such person acting for or on his behalf for a period of six months thereafter.

*(Code 1982)*

**State law reference**-Revocation of license, K.S.A. 41-2708.

**Sec. 4-313      Open containers, consumption in public prohibited.**

Any person who shall drink or consume cereal malt beverages or have in his possession an open container of cereal malt beverages upon the public highways or parking lots in the City, or any person who shall drink or consume cereal malt beverages or have in his possession an open container of cereal malt beverage while in any motor vehicle upon the highways or parking lots in the City shall, upon conviction thereof, be guilty of a Class B Misdemeanor.

*(Code 1982)*

**State law reference**-Open containers, K.S.A. 41-2719.

**Sec. 4-314      Penalty for purchase by persons under legal age for consumption.**

Any person who shall purchase cereal malt beverages while over the age of 18 years of age, but less than the legal age for consumption of cereal malt beverages, shall, upon conviction thereof, be guilty of a Class C Misdemeanor for which the minimum fine shall be \$100.00.

*(Code 1982)*

**State law reference**-Purchase of cereal malt beverages by persons under legal age for consumption thereof, K.S.A. 41-727.

**Sec. 4-315      Possession or consumption by person not of legal age for consumption; penalty.**

- A. It shall be unlawful for any person not of legal age for consumption of cereal malt beverages to possess or consume cereal malt beverages in the City.
- B. Any person violating this section shall be deemed guilty of a Class C Misdemeanor for which the minimum fine is \$100.00, provided the person is 18 years of age or older.

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- C. Minors in violation of this section shall be referred to proper juvenile authorities.

*(Code 1982)*

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**ARTICLE IV. PRIVATE CLUBS**

**Sec. 4-401 Private clubs; rules.**

All rules and regulations set forth in this Chapter concerning the sale and consumption of alcoholic liquor and cereal malt beverages and the penalties set forth therein shall be applicable to the owners, operators and managers of private clubs.

*(Code 1982)*

**Sec. 4-402 Private clubs; tax; penalty.**

- A. An annual occupation tax is hereby levied upon each individual or organization licensed as a Class B Club under a license issued by the State Director of Alcoholic Beverage Control in the sum of \$250.00, which tax shall be paid to the City Clerk within five (5) days after the issuance of such state license, either upon original issuance or upon renewal of such license.
- B. Failure to pay this tax shall be a Class A Misdemeanor. Each day a private club is operated in violation of this section shall constitute a separate offense.

*(Code 1982)*

**Cross references**-Finance, Ch. 2.

**State law reference**-Occupation or license tax authorized, K.S.A. 41-2622 (b).

**Sec. 4-403 Private clubs; display of license and tax receipt; penalty.**

- A. Every Class B Club licensee shall cause the occupation tax receipt as described in Section 4-402 to be placed in plain view either next to or immediately below the state license in a conspicuous place on the licensed premises.
- B. Failure to display such license and tax receipt shall constitute a Class A Misdemeanor, and each day a private club is operated in violation of this section shall constitute a separate offense.

*(Code 1982)*

**State law reference**-Display of license, K.S.A. 41-2612.

**Cross references**-Businesses, Ch. 11; Zoning, App. B.

**State law reference**-Private clubs, K.S.A. 41-2601 et seq.

**Sec. 4-404 After-hours serving, mixing and consumption of alcoholic beverages; penalty.**

- A. It shall be unlawful for any person who owns, operates or manages any club licensed under the provisions of K.S.A. 41-2605 et seq. to serve, mix or allow the consumption of alcoholic beverages on its premises between the hours of 1:30 a.m. and 9:00 a.m. on any day other than Sunday, nor between the hours of 1:30 a.m. and 12:00 noon on Sunday.

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- B. Any person who violates the provisions of this section shall, upon conviction, be guilty of a Class A Misdemeanor. For the purposes of this section, “person” shall be defined as the owner or operator of a club who is in the premises at the time of the violation.

*(Code 1982)*

**State law reference**-Hours of sale, K.S.A. 41-2614.

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**ARTICLE V. ALCOHOLIC LIQUOR-BY-THE-DRINK**

**Sec. 4-501      Definitions.**

*Alcoholic liquor*- means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

*Caterer*- means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

*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.

*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 referred to as members, and their families and guests accompanying them.

*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.

*Club*- means a Class A or Class B Club.

*Drinking establishment*- means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold, to be consumed on the premises.

*Food service establishment* - shall mean a business which possesses a valid Kansas Food Service Establishment License pursuant to K.S. A. 36-502 et seq. And whose owner(s) seeks to use a portion of the City owned sidewalk for dining purposes.

*Licensee* - shall mean the owner of a food service establishment that obtains a sidewalk dining license pursuant to this Ordinance.

*Sidewalk*- shall mean City owned right-of-way or easement that adjoins the property line of the food service establishment.

*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 of [for] consumption on unlicensed premises, open to the public.

**REVISED:** (Ord. 3125-94, 12-12-94; Ord. No. 3281-98, 08-05-98)

## ALCOHOLIC BEVERAGE CHAPTER 4

### Sec. 4-502      Occupational tax.

There is hereby levied an annual occupation tax of \$250.00 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 on 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.

**REVISED:** (*Ord. 3125-94, 12-12-94*)

### Sec. 4-503      Restriction on location

Section 1.      No alcoholic liquor license shall be issued by the City to a bar, tavern, or drinking establishment that is located within 200 feet of an accredited school building or organized church building.

- A.      This location restriction shall not apply to restaurants, as that term is defined in K.S.A. 41-2601 (o)(1), (2) and (3).
- B.      The location restriction contained in this code section shall not apply if the accredited school or organized church is established after the premises have been licensed. In such cases the premises shall be eligible for re-issuance of future licenses.
- C.      In situations where, as of enactment of this ordinance, there are existing violations of the location restriction contained in this section, such violation shall not constitute a reason to not re-issue a license.
- D.      Distances measured under this section shall be measured from property line of the protected property to the nearest portion of the building occupied by the license holder.

Section 2.      The distance location of subsection (1) above shall not apply to a bar, tavern, 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.

Section 3.      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 applicable city laws, including building and health codes.

Section 4.      No license or permit shall be issued for the sale of cereal malt beverage until the building or use meets the City's most recently adopted Fire and Life Safety Code.

**REVISED:** (*Ord. 3125-94, 12-21-94; Ord. No. 3393-02, 01-16-02; Ord. No. 3457-03, 10/15/03*)

### Sec. 4-504      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 inside of the Municipal Auditorium, located at 3<sup>rd</sup> and Hickory, or the inside of the Carnegie Cultural Center, located at 5<sup>th</sup> and Main.

**REVISED:** (*Ord. No. 3327-99, 09-01-99*)

Changed 10/30/03

## ALCOHOLIC BEVERAGE CHAPTER 4

### Sec. 4-505 Permit required.

If any person, association, firm, or organization is required under State Law to obtain a temporary permit by the State of Kansas to sell or serve any alcoholic liquor, such person, association, firm, or organization shall also obtain a local temporary permit from the City Clerk before selling or serving any alcoholic liquor within the City.

**REVISED:** (*Ord. 3126-94, 12-21-94*)

### Sec. 4-506 Permit fee.

- A. There is hereby levied a temporary permit fee in the amount of \$20.00 per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.
- B. Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the City where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

**REVISED:** (*Ord. 3126-94, 12-21-94*)

### Sec. 4-507 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 5 working 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.

**REVISED:** (*Ord. 3126-94, 12-21-94*)

### Sec. 4-508 Permit regulations.

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- A. No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 1:30 a.m. and 9:00 a.m. on any day other than Sunday, nor between the hours of 1:30 a.m. and 12:00 noon on Sunday, 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.

**REVISED:** *(Ord. 3126-94, 12-21-94)*

**Sec. 4-509 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.

**REVISED:** *(Ord. 3127-94, 12-21-94)*

**Sec. 4-510 License fee.**

- A. There is hereby levied an annual license fee in the amount of \$250.00 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 and license displayed before business is begun under an original state license and within five (5) days after any renewal of a state license.
- B. All applications for new or renewal City Licenses shall be submitted to the City Clerk. Upon presentation of a state license, payment of the city license fee and the license application, the City Clerk shall issue a City License 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. The City Drinking Establishment License shall be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

**REVISED:** *(Ord. 3127-94, 12-21-94)*

**Sec. 4-511 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 1:30 a.m. and 9:00 a.m. on any day other than Sunday, nor between the hours of 1:30 a.m. and 12:00 noon on Sunday.
- 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.

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- C. No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

**REVISED:** *(Ord. 3127-94, 12-21-94)*

**Sec. 4-512      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 \$1000.
- B. Imprisonment in jail for not more than 179 days.
- C. Both such fine and imprisonment not to exceed (A) and (B) above.

**REVISED:** *(Ord. 3125-94, 12-21-94)*

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**ARTICLE VI. THE SALE OF LIQUOR-BY-THE-PACKAGE**

**Sec. 4-601 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.

**REVISED:** *(Ord. No. 3301-98; 12-16-98)*

**Sec. 4-602 Occupational Tax.**

There is hereby levied an annual occupation tax of \$300.00 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.

**REVISED:** *(Ord. No. 3301-98; 12-16-98)*

**Sec. 4-603 Posting of Receipt.**

Every licensee under this ordinance 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.

**REVISED:** *(Ord. No. 3301-98; 12-16-98)*

**Sec. 4-604 Hours of Sale.**

No person shall sell at retail any alcoholic liquor:

- A. On any Sunday.
- B. On Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day;
- C. Before 9:00 a.m. or after 10:00 p.m. on any day when the sale thereof is permitted.

**REVISED:** *(Ord. No. 3301-98; 12-16-98)*

**State law reference - K.S.A. 41-712**

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**Sec. 4-605 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.
- E. Have in his or her possession for sale at retail any bottles, casks, 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.

**REVISED:** (*Ord. No. 3301-98; 12-16-98*)

**Sec. 4-606 Restrictions on Location.**

No license shall be issued for the purpose of operating a business to sell packaged liquor within a building, which is located within 300 feet of any existing accredited school building or of any existing organized church building.

- A. Accredited school shall be determined by the Kansas State Department of Education.
- B. Accredited schools in the City of Ottawa are as follows:
  - 1. All school buildings associated with U.S.D. 290.
  - 2. Sacred Heart Elementary School.

**REVISED:** (*Ord. No. 3304-98, 12-16-98*)

