

## CHAPTER III. BEVERAGES

- Article 1. Cereal Malt Beverages
  - Article 2. Alcoholic Liquor
  - Article 3. Drinking Establishments
  - Article 4. Private Clubs
  - Article 5. Special Event Permit
  - Article 6. Caterers
  - Article 7. Retail Sale of Alcoholic Liquor by the Package
- 

### ARTICLE 1. CEREAL MALT BEVERAGES

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

- (a) Person shall include individuals, firms, copartnerships, corporations and associations;
- (b) Minor shall include persons less than 21 years of age;
- (c) Sale at retail and retail sale shall mean any place at which cereal malt beverages are sold;
- (e) Wholesaler or distributor shall mean individual, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this article, to persons, copartnerships, corporations and associations authorized by this article to sell cereal malt beverages at retail;
- (f) Cereal malt beverage shall include any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute but shall not include any such liquor which contains more than 3.2% of alcohol by weight;
- (g) Licensee is a person defined in subsection (a) who has a license as herein required;
- (h) General retailer is a licensee who has a license to make retail sales of cereal malt beverages for consumption on the premises where sold;
- (i) Limited retailer is a licensee who has a license to make retail sales of cereal malt beverages only in original and unopened containers, and not for consumption on the premises;
- (j) Motor vehicle shall include all motor-powered means of transportation and conveyance ordinarily used or capable of being used for the transportation of persons, such as automobiles, trucks, pickups, jeeps, racing cars, racing jalopies, motorcycles, motorscooters, farm tractors, garden tractors, truck tractors;
- (k) Highway and public places shall include streets, alleys and public ways of the city, state and federal highways within the corporate limits of the city, off-street parking facilities of businesses, churches, schools, private parking areas, public playgrounds, school playgrounds, church playgrounds, school and church drive-ways, service stations, drive-in laundries, automobile, implement

and machinery sales display lots and parks. (K.S.A. 41-2701; Ord. 574, 1988; Code 1984)

- 3-102. LICENSE REQUIRED OF RETAILERS; HOURS AND DAYS OF SALE. (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 original and unopened containers, and not for consumption on the premises, to sell beverage in any other manner.
- (c) The sale at retail of cereal malt beverage in the original package is allowed within the city on any Sunday between the hours of 12:00 noon and 8:00 p.m. and on any other day between the hours of 6:00 a.m. and 12:00 midnight. Such sales are prohibited on Easter Sunday, Thanksgiving Day, and Christmas Day. (Ord. 785. 2005; Ord. 574, 1988)

- 3-103. 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 a 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 with 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 shall be accompanied by a certificate from the county health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the health code and/or ordinances of the city;
- (g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the fire code and/or ordinances of the city.

The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall

immediately be transmitted to the chief of police for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this article. 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. (K.S.A. 41-2702; Ord. 574, 1988)

- 3-104. LICENSE APPLICATION PROCEDURES. (a) All applications for a new or renewed cereal malt beverage license shall be submitted to the city clerk at least 10 days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk shall notify the holder of an existing license 30 days in advance of its expiration.
- (c) The city clerk shall provide copies of all application to the police department, when they are received. The police department shall run a records check on all applicants. The police department 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 does not hold a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered. (Ord. 574, 1988)
- 3-105. LICENSE GRANTED; DENIED. (a) The journal of the governing body meeting shall show the action taken on the application.
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the calendar 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 by. (Code 1995, Ord.574, 1988)
- 3-106. 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. 574, 1988)
- 3-107. 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 Johnson County for at least six months prior to filing of such application.
- (b) A person who is not a citizen of the United States.
- (c) A person who is not of good character and reputation in the community in which he or she resides.

- (d) A person who, within two years immediately preceding the date of making application, has 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 this state or any other state or of the United States;
- (e) A partnership, unless all 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 non-residence within the county;
- (g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning the aggregate more than 25 percent 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 drinking establishment act or the cereal malt beverage laws of this state.
- (h) A person whose place of business is conducted by a manager or agent unless the 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. (K.S.A. 41-2703; Ord.574, 1988)

- 3-108. RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose;
- (b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a two hundred (200') foot radius of any church, school or library; (Ord. 1065, 2017)
  - (c) The provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas;
  - (d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing. (Ord. 1065, 2017; Ord. 574, 1988)

- 3-109. LICENSE FEE. There license fees for the city as follows:
- (a) General Retailer – for each place of business selling cereal malt beverages at retail for consumption on the premises, \$100 per calendar year plus the State Cereal Malt Beverage Stamp Fee.
  - (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, \$35 per calendar year, plus the State Cereal Malt Beverage Stamp Fee.

The full amount of the license fee shall be required regardless of the time of 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. 574, 1988)

3-110. 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.574, 1988)

3-111. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY. The governing body, upon five days' written notice to a person holding a license to sell cereal malt beverages, may permanently revoke or cause to be suspended such license for a period of not more than 30 days for any of the following reasons;

- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this ordinance;
- (c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain n such place selling cereal malt beverages;
- (d) The sale of cereal malt beverages to any person under the legal age for consumption;
- (e) For permitting any gambling in or upon any premises licensed under this article;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this 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) For nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license under any alcoholic liquor, private club, or drinking establishment ordinance of the city;
- (l) The provisions of subsection (f) and (i) shall not apply if such place of business is also currently licensed as a private club. (Ord. 574, 1988)

- 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 Johnson County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (Ord. 574, 1988)
- 3-113. 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 any original application. Such application shall be accompanied by a fee of \$5. 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. 574, 1988)
- 3-114. WHOLESALER AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this ordinance to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the State of Kansas authorizing such sales. (Ord. 574, 1988)
- 3-115. 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 officer of the city, county and state;
  - (c) No cereal malt beverages may be sold or dispensed between the hours of midnight and 6:00 a.m., or consumed between the hours of 12:00 midnight and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption 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 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 of Kansas;
  - (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 license issued by the State of Kansas shall be open to the police and not to public;

- (f) It shall be unlawful for a 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, give away, dispose of, exchange or deliver or permit the sale, gift or procuring of any cereal malt beverage to any person under the legal age for consumption of cereal malt beverages;
- (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 the place of business or brought in for such purposes;
- (k) No licensee shall employ any person who has been judged guilty of a felony;
- (l) No cereal malt beverage license shall permit or allow any person to be on or about the licensed premises after the hour of 1:00 a.m. or at any time during which the sale of cereal malt beverage is prohibited for the purpose of consuming cereal malt beverage;
- (m) No licensee shall allow any person to have any alcoholic liquor in his or her possession which in any place of business licensed to sell cereal malt beverages under this article unless the business also is licensed as a private club. (Ord. 677, 1996; Ord. 574, 1988)

3-116. **SANITARY CONDITIONS REQUIRED.** All parts of the licensed premises including furnishing 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 materials 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 times subject to inspection by the city/county health officer or designee. (Ord. 574, 1988)

3-117. **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 50

percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on premises consumption. (Ord. 574, 1988)

- 3-118. **MINOR MISREPRESENTING AGE.** It shall be unlawful for any person under the age of 21 years, either directly or indirectly, to misrepresent that he or she is 21 years of age or over, for the purpose of asking for, purchasing, receiving or drinking cereal malt beverages with the corporate limits of the city. (Ord. 574, 1988)
- 3-119. **FURNISHING FALSE IDENTIFICATION.** It shall be unlawful for any person to furnish, loan, or give to a minor under the age of 21 years, any identification card, driver's license, or other written instrument to be used, the purpose of asking for, purchasing, receiving or drinking cereal malt beverages within the corporate limits of the city. (Ord. 574, 1988)
- 3-120. **NO SALE ON CREDIT.** No person shall sell or furnish cereal malt beverages at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered. (K.S.A. 41-2706; Ord. 574, 1988)
- 3-121. **SALE, CONSUMPTION, PUBLIC PROPERTY.** (a) It shall be unlawful for any person to sell, serve, dispense, drink or otherwise consume any alcoholic liquor or cereal malt beverage upon any highway or public place as defined in section 3-101(j), or upon property owned by the state or any governmental agency or subdivision thereof, or in any public place not duly licensed to sell cereal malt beverage or alcoholic liquor for consumption on the premises within or under the jurisdiction of the city, except as herein provided in subsections (b), (c) and (d).
- (b) Subject to the provisions of subsection (c), any person of lawful age may consume cereal malt beverages and alcoholic liquor within the confines of the building commonly known as the Edgerton Community Building, located at 404 East Nelson, Edgerton, Kansas, if at the time of such consumption, the person is not intoxicated;
- (c) No person shall consume cereal malt beverage or alcoholic liquor on the premises of the Edgerton Community Building unless all of the following conditions are satisfied:
- (1) Such consumption takes place on the first floor, and at least 10 feet from any exterior door of the building and not in any room or area used by the city as an office, meeting, or storage room;
  - (2) Such consumption occurs at an event sponsored by the city or at an event for which the sponsor, or sponsors, has obtained a permit for the use of the building from the office of the city clerk;
  - (3) Such consumption occurs between the hours of 12:00 p.m. and 12:00 a.m.; and
  - (4) No fees or other charges are requested or charged for the admission of any person into such event or in the dispensing of cereal malt beverage or alcoholic liquor.



- (d) The governing body may make exceptions and exemptions to the provisions of subsection (a) two days each year permitting the sale and consumption of cereal malt beverages and alcoholic liquor on public property by persons of lawful age provided that any such exception or exemption is duly passed and approved by resolution each year designating the date, times, location of sales and consumption and all other conditions and restrictions regarding the same. (Ord. 779, 2005; Ord. 574, 1988)

- 3-122. OPEN CONTAINER. (a) No person shall transport in any vehicle upon a highway or street any cereal malt beverage unless such cereal malt 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.
- (c) Violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both fine and imprisonment. (K.S.A. 41-2719; Ord. 574, 1988)

- 3-123. CONSUMPTION WHILE DRIVING. No person shall consume any cereal malt beverage while operating any vehicle upon any street or highway. Violation of this section is punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both. (K.S.A. 41-2720; Ord. 574, 1988)

## ARTICLE 2. ALCOHOLIC LIQUOR

- 3-201. DEFINITIONS. (a) Alcoholic liquor means alcohol, spits, wine, beer and every liquid or solid, patented or not, containing alcohol, sprits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.
- (b) Caterer means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a special event permit selling alcoholic liquor in accordance with the terms of such permit. (Ord. 910, 2011)

- (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, 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) Drinking Establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (h) Special Event Permit means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public. (Ord. 910, 2011)
- (i) Occupation Tax means a tax levied on the holder of a license for the retail sale of alcoholic liquors by the package issued by the state director of alcoholic beverage control. (Ord. 910, 2011; Ord. 577, 1988)

3-202. RESTRICTION ON LOCATION. (a) No retail package liquor nor any 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 two hundred feet (200') of any church, school, nursing home, library, or hospital said distance to be measured from the nearest property line of such church, school, nursing home, library, or hospital, to the nearest portion of the building occupied by the premises; (Ord. 1065, 2017)

- (b) The distance location of subsection (a) above shall not apply to a club, drinking establishment, caterer or special event 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; (Ord. 910, 2011)
- (c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the City or conflicts with other City laws, including building and health codes. (Ord. 1065, 2017; Ord. 910, 2011; Ord. 577, 1988)

3-203. MINORS INCAPACITATED PERSONS. (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

- (b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor who is serving alcoholic liquor or a caterer or special event permit holder to permit any person under the age of 21 years to remain on the premises. (Ord. 910, 2011)
- (c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than 50 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
- (d) It shall be unlawful for any person under the age of 21 to represent that he or she is of age for the purpose of purchasing or attempting to purchase any alcoholic liquor, or attempt to purchase or purchase alcoholic liquor from any person. No person under the age of 21 shall have any alcoholic liquor in his or her possession.
- (e) No person shall knowingly sell, give away, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor. (K.S.A. 41-715; Ord. 910, 2011; Ord. 577, 1988)

3-204. OCCUPATIONAL TAX. (a) There is hereby levied a biennial occupational tax in an amount described on the most current Fee and Rate Resolution for the City of Edgerton 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.

- (b) Upon presentation of a state license and payment to the city of the tax described above, 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) No tax paid shall be refunded for any reason.
- (d) Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax license to be placed in plain view, next to or below the state license in a conspicuous location on the licensed premises. (Ord. 1067, 2017)

3-205. FURNISHING FALSE IDENTIFICATION. It shall be unlawful for any person to furnish, loan or give to a minor any identification card, driver's license or other written instrument to be used or which might be used by such minor in misrepresenting his or her age for the purpose of asking for, purchasing, receiving or drinking alcoholic liquor within the corporate limits of the city. (Ord. 577, 1988)

- 3-206. PENALTY. Any individual violating any of the provisions of this article, may be charged in municipal court with a violation of the alcoholic liquor laws of the city and upon conviction shall be punished by:
- (a) A fine of not more than \$499;
  - (b) Imprisonment in jail for not more than 179 days; or
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
  - (d) In addition to the above, the city may revoke or suspend for not more than 30 days and license or permit granted under this article. (Ord. 577, 1988)

### ARTICLE 3. DRINKING ESTABLISHMENTS

- 3-301. 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 with the city without first obtaining a city license from the city clerk. (Ord. 577, 1988)
- 3-302. OCCUPATIONAL TAX. (a) There is hereby levied a biennial occupational tax in an amount described on the most current Fee and Rate Resolution for the City of Edgerton on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control. Such tax shall be paid by the establishment 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.
- (b) Upon presentation of a state license and payment to the city of the tax described above, 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) No tax paid shall be refunded for any reason.
  - (d) Every licensee under this article shall cause the city drinking establishment occupation tax license to be placed in plain view, next to or below the state license in a conspicuous location on the licensed premises.
  - (e) The drinking establishment license issued by the city shall not be transferable or assignable. Each license shall be valid only to the originally applying licensee in the premises for which the license was originally issued. (Ord. 1067, 2017)
- 3-303. BUSINESS REGULATIONS. (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises before 9:00 a.m. nor after the hour of 2:00 a.m. on weekdays and Saturdays; on Sundays no drinking establishment shall dispense or permit the consumption of alcoholic beverages before the hour of 10:00 a.m. nor after 2:00 a.m.
- (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 allow by law to be served on the premises.

- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. ( K.S.A. Supp 41-2614; Ord. 577, 1988)

- 3-304. PENALTY. If the licensee has violated any of the provisions of this article, the governing body of the city, upon five days' written notice to the person hold such license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license and the individual holding the license may be charged in municipal court with violation of the alcoholic liquor laws of he city and upon conviction shall be punished by:
- (a) A fine of not more than \$499.00; or
  - (b) Imprisonment in jail for not more than 179 days; or
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Ord. 577, 1988)

#### ARTICLE 4. PRIVATE CLUBS

- 3-401. 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. (Ord. 577, 1988)
- 3-402. OCCUPATIONAL TAX. (a) There is hereby levied a biennial occupational tax in an amount described on the most current Fee and Rate Resolution for the City of Edgerton on each private club located in the city which as a private club license issued by the state director of alcoholic beverage control. Such tax shall be paid by the private club 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.
- (b) Upon presentation of a state license and payment to the city of the tax described above, 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) No tax paid shall be refunded for any reason.
  - (d) Every licensee under this article shall cause the city private club occupation tax license to be placed in plain view, next to or below the state license in a conspicuous location on the licensed premises.
  - (e) The private club license issued by the city shall not be transferable or assignable. Each license shall be valid only to the originally applying licensee in the premises for which the license was originally issued. (Ord. 1067, 2017; Ord. 577, 1988)
- 3-403. BUSINESS REGULATIONS. (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises before 9:00 a.m. nor after the hours of 2:00 a.m. on weekdays and Saturdays; on Sundays no club shall dispense or permit the consumption alcoholic beverages before the hour of 10:00 a.m. nor after 2:00 a.m.

- (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.
  - (d) 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; Ord. 577, 1988)
- 3-404. VACATING PREMISES. On or by 2:30 a.m., the premises of a club shall be vacated by all patrons, guests, invitees, or any other person who is not an employee, owner or manager of the premises. (Ord. 577, 1988)
- 3-405. EMPLOYEE LIST. Upon request or demand made at any time by any law enforcement officer of the city, the owner or manager, or assistant manager, or other person then in charge of the club, or any employee, shall produce and deliver to such officer, for inspection and copying, or for other purposes consistent with the provisions of this article, a list which correctly reflects the names, addresses and date of birth of all persons employed by such club and of all persons who are owners of such club on the date upon which such request or demand is made. (Ord. 577, 1988)
- 3-406. ENTRY AND INSPECTION. The right of immediate entry and inspection at any time of any premises subject to the control of any private club by any law enforcement officer, or agent of any department charged with the enforcement of this article, shall be a condition on which every license shall be issued and the application for, and acceptance of, any licensee to such immediate entry and inspection. (Ord. 577, 1988)
- 3-407. PENALTY. If the licensee has violated any of the provisions of this article, the governing body of the city, upon five days' written notice to the person holding such license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license and the individual holding the license may be charged in municipal court with violation of the alcoholic liquor laws of the city and upon conviction shall be punished by:
- (a) A fine of not more than \$499.00; or
  - (b) Imprisonment in jail for not more than 179 days; or,
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above. (Ord. 577, 1988)

#### ARTICLE 5. SPECIAL EVENT PERMIT

- 3-501. PERMIT REQUIRED. It shall be unlawful for any person granted a Special Event Permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local special event permit from the city clerk. It shall also be unlawful for any person to sell or serve any cereal malt beverage at any special event within the city without first obtaining a local special event permit from the city clerk. (Ord. 910, 2011; Ord. 577, Sec.1)

3-502. PERMIT FEE. (a) There is hereby levied a special event permit fee in the amount of \$50.00 on each group or individual, which fee shall be paid before the event begins.

(b) Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event permit is serving alcoholic liquor (must be permitted by the State) or cereal malt beverage for consumption on the premises. (Ord. 910, 2011; Ord. 577, 1988)

3-503. SPECIAL CITY EVENT PERMIT. (a) It shall be unlawful for any person to serve alcoholic liquor (must be permitted by the State) or cereal malt beverage at a special event without first applying for a local special event permit at least 14 days before the event. Written application for the local special event permit shall be made to the city clerk on the form used for annual cereal malt beverage sales as directed by the city clerk. In addition to any other information required, the applicant shall provide the following:

- (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 meeting the requirements to obtain a special event permit, and after approval by the governing body, the city clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.
- (c) The city clerk shall notify law enforcement whenever a special event has been issued and forward a copy of the permit and application to law enforcement. (Ord. 910, 2011; Ord. 577, 1988)

3-504. PERMIT REGULATIONS. (a) No special event holder shall allow the serving of alcoholic liquor (must be permitted by the State) between the hours of 2:00 a.m. and 10:00 a.m. at any event for which a special event permit has been issued.

- (b) No alcoholic or cereal malt beverage shall be given, sold or traded to any person under 21 years of age.
- (c) No more than four special event permits may be issued in a calendar year to the same applicant.
- (d) No special event permit issued hereunder may be transferred or assigned to any other vendor.
- (e) All local ordinances and state statutes for the sale and consumption of alcoholic liquor or cereal malt beverages may apply to holders of special event permits. (Ord. 910, 2011; Ord. 577, 1988)

## ARTICLE 6. CATERERS

- 3-601. **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. (Ord. 577, 1988)
- 3-602. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$250.00 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises. (Ord. 577, 1988)
- 3-603. **BUSINESS REGULATIONS.** (a) A caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises before 9:00 a.m., nor after the hours of 2:00 a.m. on weekdays and Saturdays; on Sundays no caterer licensed hereunder shall dispense or permit the consumption of alcoholic beverages before the hour of 10:00 a.m. nor after the hour of 2:00 a.m.
- (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (K.S.A. Supp. 41-2614; Ord. 577, 1988)
- 3-604. **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 seven days 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. (Ord. 577, 1988)
- 3-605. **PENALTY.** If the licensee has violated any of the provisions of this ordinance, the governing body of the city, upon five days' written notice to the person holding such caterer's license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license and the individual holding the license may be charged in municipal court with a violation of the alcoholic liquor laws of the city and upon conviction shall be punished by:
- (a) A fine of not more than \$499.00;
- (b) Imprisonment in jail for not more than 179 days; or,



- (c) Both such fine and imprisonment not to exceed (a) and (b) above. (Ord. 577, 1988)

#### ARTICLE 7. RETAIL SALE OF ALCOHOLIC LIQUOR BY THE PACKAGE

3-701. OCCUPATIONAL TAX (a) There is hereby levied a biennial occupational tax in an amount described on the most current Fee and Rate Resolution for the City of Edgerton on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquor, including beer containing more than 3.2 percent of alcohol by weight, for consumption off the premises and sales in original package only. 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.

- (b) Upon presentation of a state license and payment to the city of the tax described above, 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) No tax paid shall be refunded for any reason.

- (d) Every licensee under this article shall cause the city alcoholic liquor retailer by the package occupation tax license to be placed in plain view, next to or below the state license in a conspicuous location on the licensed premises. (Ord. 1067, 2017; Ord. 577, 1988)

3-702. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be prominently displayed next to or below the state license in a conspicuous place on the licensed premises. (Ord. 577, 1988)

3-703. HOURS AND DAYS OF SALE. The sale at retail of alcoholic liquor in the original package is allowed within the city on any Sunday between the hours of 12:00 noon and 8:00 p.m. and on any other day between the hours of 9:00 a.m. and 11:00 p.m. Such sales are prohibited on Easter Sunday, Thanksgiving Day, and Christmas Day. (Ord. 784, 2005; Ord. 772, 2004; Ord. 676, 1996; Ord. 577, 1988;)

3-704. PROHIBITED ACTS. It shall be unlawful for a retailer of alcoholic liquor by the package 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 change to be located in or on the premises;
- (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; or

- (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. (Ord. 577, 1988)