

CHAPTER III. BEVERAGES

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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) Cereal malt beverage means cereal malt beverage as that term is defined in K.S.A.

§ 41-2701, and amendments thereto;

(b) License means a license issued by the City of Edgerton under the licensing authority accorded to cities by the Kansas cereal malt beverage act, and in accordance with this ordinance, which authorizes retailers so licensed to sell or offer for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption within the corporate limits of the city and not for resale in any form;

(c) General retailer means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption and not for resale in any form;

(d) Limited retailer means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale, in the original and unopened containers, and not for consumption on the premises, any cereal malt beverage or beer containing not more than 6% alcohol by volume;

(e) Person means any individual, firm, partnership, corporation or association;

- (f) Licensed premises means those areas described in an application for a cereal malt beverage retailer license issued pursuant to K.S.A. 41-2702, and amendments thereto, that are under the control of the applicant and that are intended as the area in which cereal malt beverage or beer containing not more than 6% alcohol by volume is to be served pursuant to the applicant's license;
- (g) Minor shall include persons less than twenty-one (21) years of age;
- (h) Sale at retail and retail sale shall mean any place at which cereal malt beverages are sold;
- (i) Wholesaler or distributor shall mean individual, firms, co-partnerships, corporations and associations which sell or offer for sale any beverage referred to in this article, to persons, co-partnerships, corporations and associations authorized by this article to sell cereal malt beverages at retail;
- (j) Licensee is a person defined in subsection (e) who has a license as herein required;
- (k) 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, motor scooters, farm tractors, garden tractors, truck tractors;
- (l) 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 private businesses, churches, schools, playgrounds, private parking areas, and parks.

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 or beer containing not more than 6% alcohol by volume at retail without a license for each place of business where cereal malt beverages or beer containing not more than 6% alcohol by volume are to be sold at retail;
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at retail only in the original and unopened containers and not for consumption on the premises, to sell cereal malt beverage or beer containing not more than 6% alcohol by volume in any

- other manner;
- (c) Retailers' licenses shall be issued annually and shall be valid for a specified calendar year;
 - (d) 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.

3-103. APPLICATION

Any person desiring a license shall make an application to the State of Kansas. The application shall be verified by the Attorney General of the State of Kansas. The approved application and state provided stickers, accompanied by the required license fee for each place of business for which the person desires the license, must be returned to the governing body of the city for approval.

3-104. LICENSE APPLICATION PROCEDURES

- (a) All applications for a first time or renewed license for the sale of cereal malt beverage or of beer containing not more than 6% alcohol by volume shall be submitted, after State of Kansas approval, to the city clerk ten (10) days in advance of the governing body meeting at which the license will be considered;
- (b) The city clerk's office shall notify the holder of an existing license forty-five (45) days in advance of its expiration;

3-105. LICENSE GRANTED; DENIED

- (a) The journal of the governing body shall show the action taken on the application;
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the 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.

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.

3-107. RESTRICTION UPON LOCATION.

- (a) No license shall be issued for the sale at retail of any cereal malt beverage or beer containing not more than 6% alcohol by volume 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 or beer containing not more than 6% alcohol by volume at any place within the city limits that is within a three hundred (300) foot radius of any church, school or library;
- (c) The provisions at (a) and (b) shall not apply to any establishment holding a club or drinking establishment license issued by the State of Kansas;
- (d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

3-108. LICENSE FEE.

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

- (a) General Retailer -- for each place of business selling cereal malt beverages or beer containing not more than 6% alcohol by volume at retail for consumption of the premises, a fee, per calendar year, as determined by the City of Edgerton Fee Resolution.
- (b) Limited Retailer -- for each place of business selling only at retail cereal malt beverages or beer containing not more than 6% alcohol by volume in original and unopened containers and not for consumption on the premises, a fee, per calendar year, as determined by the City of Edgerton Fee Resolution.

The full amount of the license fee shall be required regardless of when the

application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

3-109. SUSPENSION OF LICENSE

The City Administrator or designee, upon five (5) days' written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or to beer containing not more than 6% alcohol by volume, 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 (7) days from the date of such order.

3-110. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY

The governing body of the city, upon five (5) days' written notice, to a person holding a license shall permanently revoke or cause to be suspended for a period of not more than thirty (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 ordinance or has become ineligible to obtain a license under the provisions of this ordinance;
- (c) Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business.
- (d) The sale of cereal malt beverages or beer containing not more than 6% alcohol by volume to a person under twenty-one (21) years of age;
- (e) For permitting any gambling in or upon any premises licensed;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed 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 or beer containing not more than 6% alcohol by volume;
- (h) For the employment of a persons the licensee knows has been, within the preceding two years, adjudged guilty of a felony or of a violation of any laws

- relating to intoxicating liquor in this state, another state or the United States;
- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed, except beer containing not more than 6% alcohol by volume;
 - (j) The nonpayment of any license fees;
 - (k) If the licensee has become ineligible to obtain a license;
 - (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a club or drinking establishment by the State of Kansas.

3-111. SAME; APPEAL

Pursuant to K.S.A. 41-2708(d), the licensee, within twenty (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 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.

3-112. CHANGE OF LOCATION

If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee as determined by the City of Edgerton Fee Resolution. 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 calendar year for which a current license is held by the licensee.

3-113. WHOLESALERS AND/OR DISTRIBUTORS

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages or beer containing not more than 6% alcohol by volume within the city, to persons authorized to sell the same within this city unless such wholesaler and/or distributor has first secured a license authorizing such sales from the State of Kansas.

3-114. BUSINESS REGULATIONS

It shall be the duty of every licensee to observe the following regulations:

- (a) The place of business licensed, and operating shall at all times have a front and rear exit unlocked when open for business;
- (b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state;
- (c) Except as provided by subsection (d), no cereal malt beverage or beer containing not more than 6% by volume may be sold or dispensed; (1) Between the hours of 12:00 midnight and 6:00 a.m.; (2) in the original package before 12:00 noon or after 8:00 p.m. on Sunday; (3) on Easter Sunday, Thanksgiving Day and Christmas Day; or (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage or beer not more than 6% by volume for consumption on the premises, which derive not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises;
- (d) cereal malt beverages or beer containing not more than 6% alcohol by volume 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. 41-2601, et seq. and amendments thereto, and licensed as a club or drinking establishment by the State of Kansas;
- (e) The place of business shall be open to the public and to law enforcement officers at all times during business hours, except that premises licensed as a club under a license issued by the State of Kansas shall be open to law enforcement and not to the public;
- (f) It shall be unlawful for any licensee or agent or employee of the licensee to

- become intoxicated in the place of business for which such license has been issued;
- (g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued;
 - (h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage or of beer containing not more than 6% alcohol by volume to any person under twenty-one (21) years of age;
 - (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued;
 - (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose;
 - (k) No licensee or agent or employee of the licensee shall employ any person under 18 years of age to dispense cereal malt beverages or beer containing not more than 6% alcohol by volume;
 - (l) No licensee shall knowingly employ any person who, within the preceding two years, has been adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States;
 - (m) A licensee's employee who is not less than eighteen (18) years of age may dispense or sell cereal malt beverage or beer not more than 6% by volume, if;
 - (1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% by volume in the original package and not for consumption on the premises; or
 - (2) The licensee's place of business is a licensed food service establishment, as defined by K.S.A. § 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business;
 - (n) 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;
 - (o) 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.

3-115. 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 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 lit, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

3-116. MINORS ON PREMISES.

- (a) Except as allowed by 3-115(m) above, it shall be unlawful for any person under twenty-one (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 twenty-one (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% of its gross receipts in each calendar year from the sale of cereal malt beverages for on premises consumption.

3-117. 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(l) , 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 Greenspace, located at 303 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 Greenspace unless all of the following conditions are satisfied:
 - (1) Persons wishing to serve alcohol must obtain a permit at least five days in advance before their planned event. Consumption is limited to the interior of the building. Glass containers of any kind are prohibited in the facility. Intoxicated persons will not be permitted on City property.
 - (2) Security is required for any event where alcohol will be served Security will be provided by the Johnson County Sherriff's Department at an additional cost as referenced in the City's annual Fee Resolution.. ;
 - (3) The renter MUST obtain an alcohol permit PRIOR to their reservation. Glass containers of any kind are prohibited in the facility. Intoxicated persons will not be permitted on City property. The consumption of alcohol is only permitted on the premises of an alcohol permit attained PRIOR to the reservation;
 - (4) The permit requires an additional fee and deposit. If a permit is not attained, the renter will be given a warning and must remove any alcohol from the premises. After one warning, renter must vacate property and will forfeit all fees and deposits, and the renter will no longer be allowed to rent the facilities;
 - (5) City staff and emergency personnel reserve the right to enter all facilities, at all times during any and all occupancies. The renter shall observe, obey, and comply with all applicable City, County, State, and Federal laws, rules, and regulations. All permits and licenses required for intended use under the renter's agreement must be procured by the renter.

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)
- (a) 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.
- (b) 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.
- (c) 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.
- (d) Club means a Class A or Class B club.
- (e) Drinking Establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (f) 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)
- (g) 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. 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)

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:

- (1) A fine of not more than \$499.00; or
- (2) Imprisonment in jail for not more than 179 days; or
- (3) Both such fine and imprisonment not to exceed (a) and (b) above. (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 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 beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(4) 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. 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)

3-406. 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. COMMON CONSUMPTION AREA

3-501: COMMON CONSUMPTION AREA ESTABLISHED. In accordance with K.S.A. 41-2659 and K.S.A. 41-719(b), and amendments thereto, the Governing Body of the City of Edgerton hereby establishes the Edgerton Downtown Common Consumption Area (CCA) to allow the possession and consumption of alcoholic liquor or cereal malt beverage within the common consumption area, subject to certain rules and regulations, within the following area: A track of land within the city limits of Edgerton, Johnson County, Kansas, shown generally on Exhibit A, attached hereto and incorporated herein by reference.

3-502: SPECIAL EVENT REQUIRED; STREETS, HOURS. During a special event or civic event which requires a special event permit from the City, the boundaries of the event shall be clearly marked using a physical barrier or other apparent line of demarcation. Any public street or roadway that lies within the CCA designated for the special event or civic event shall be blocked from motorized traffic during the hours in which the alcoholic liquor or cereal malt beverage is consumed. The possession and consumption of alcoholic liquor or cereal malt beverage within the CCA during a special event or civic event will only be allowed between the hours of 12:00 PM and 11:00 PM Sunday through Saturday.

3-503: PERMIT; DIRECTORS OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL. The Governing Body hereby authorizes the possession and consumption of alcoholic liquor or cereal malt beverages within the CCA provided that a common consumption area permit has been issued to the City by the State of Kansas, Director of the Division of Alcoholic Beverage Control in accordance with K.S.A. 41-2659 and amendments thereto.

3-504: AUTHORIZED ALCOHOLIC LIQUOR CONTAINERS. All alcoholic liquor and cereal malt beverages may not be served in a glass container or any container that otherwise represents a potential danger to the public as determined by law enforcement officials. All alcoholic liquor containers must display the licensee's trade name or logo or other identifying mark that is unique to the licensee.

3-505: PURCHASES OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES. The possession or consumption of alcoholic liquor or cereal malt beverages outside the boundaries of the CCA shall not be permitted inside the boundaries of the special event or civic event and CCA. No open container of alcoholic liquor or cereal malt beverage shall be removed from the boundaries of the CCA during a special event or civic event.

3-506: INAPPROPRIATE CONDUCT; PROHIBITED. Inappropriate conduct shall not be permitted within the boundaries of the CCA and any person engaging in inappropriate conduct shall be subject to removal from the event. Inappropriate conduct may include, but is not limited to, fighting, use of profanity or indecent language, harassment, destruction of property, lewd or lascivious acts, or committing any violation of state or federal law or City ordinance.

3-507: LICENSES. All licensees approved by the Director to participate in the CCA shall at all times comply with any and all federal and state laws and City ordinances regulating the purchase, sale and consumption of alcoholic liquor.

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 as established by the City's annual Fee Resolution 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. 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. OCCUPTIONAL 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)