Chapter 4

ALCOHOLIC BEVERAGES*

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ARTICLE I. IN GENERAL

Sec. 4-1. 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:

Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

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

Beer means a beverage, containing more than 3.2 percent alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water, and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

Case retailer means a person who has a license to sell cereal malt beverages only at retail, in original and unopened containers, and 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 or malt substitute or any flavored malt beverage, as defined in K.S.A. 41-2729, and amendments thereto, 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 non-profit social, fraternal or war veterans' club, as determined by the director of alcohol beverage control of the state department of revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (referred to as members) and their families and guests accompanying them, and which is licensed by or subject to the licensing regulations of the director of alcohol beverage control of the state department of revenue.

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, and which is licensed by or subject to the licensing regulations of the director of alcohol beverage control of the state department of revenue.

Drinking establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold or where cereal malt beverages are sold for consumption on the premises, and includes all premises which are licensed as Class A clubs or Class B clubs, or which are subject to the licensing requirements of Class A clubs or Class B

clubs, and which includes all premises which are licensed to sell cereal malt beverages for consumption on the premises by and under the licensing requirements of the Kansas Cereal Malt Beverage Act, K.S.A. 41-2701 et seq.

Employee means any person employed in the business of selling alcoholic liquor or cereal malt beverages by a licensee; the licensee's manager or agent; an independent contractor hired by the licensee; or any person under the direction and control of the licensee.

Exposing to view means the showing or uncovering of those portions of the human anatomy prohibited by this chapter with less than a fully opaque covering.

Highways and public places means streets, alleys and public ways of the city, state and federal highways within the corporate city limits, off-street parking facilities of businesses, churches, schools, private parking areas, public parks, public playgrounds, school and church driveways, service stations, food and beverage drive-ins, drive-in laundries, automobile, implement and machinery sales display lots and drive-in theaters.

Juvenile means any person under 18 years of age.

Licensed premises means the premises for which a license as a Class A club, Class B club or a drinking establishment selling cereal malt beverages for consumption on the premises is issued and such other areas under the control of the licensee or his employees or agents that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons within the licensed premises.

Licensee means any person to whom a current Class A club, Class B club, or drinking establishment license has been issued by the state department of revenue authorizing the sale of alcoholic liquor, or any person to whom a current cereal malt beverage license for consumption on the premises has been issued by the board of commissioners.

Member means any person who has a membership to a Class A club or a Class B club.

Minor means any person under 21 years of age.

Nudity means the showing of the human male and female genitals, pubic area, buttocks or anal cleft or cleavage of the buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of all of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

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

Premises means the specific area described in the license application and approved as the location upon which alcoholic or cereal malt beverages may be sold or consumed under the license.

Retailer means any person who sells or offers for sale any alcoholic liquor or cereal malt beverage for use or consumption and not for resale in any form.

Sale at retail and *retail sale* mean sale for use or consumption and not for resale in any form.

Wholesaler or *distributor* means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor or cereal malt beverage for sale or resale to retailers licensed under this chapter.
(Code 1977, §§ 4-16, 4-41; Ord. No. 5467, § 1, 10-23-1968; Ord. No. G-92-04, § 1(4-16), (4-41), 3-9-1992; Ord. No. G-93-04, § 1(4-1), 2-22-1993; Ord. No. G-96-06, § 1(4-41), 10-22-1996)

Sec. 4-2. Violations and penalties.

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $500.00, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(b) Each day of violation constitutes a separate offense.

(c) Whenever violations of this chapter result in three convictions within any 12-month period for conduct occurring on the licensed premises, each conviction arising from a separate act or incident, any cereal malt beverage license issued to the licensee by the board of commissioners shall immediately lapse and become wholly null, void, and of no effect whatsoever without further action by the city.
(Ord. No. G-93-04, § 1(4-4), 2-22-1993; Ord. No. G-97-01, § 1(4-7), 7-22-1997)

Sec. 4-3. Prohibited conduct on premises.

(a) The following conduct by a licensee or the licensee's manager, employee, or agent, or by an independent contractor hired by the licensee or hired by the licensee's manager, employee, or agent, or by any person with the approval, permission, acquiescence, or tolerance of the licensee or the licensee's manager, employee or agent, if occurring on the licensed premises, is prohibited:

(1) Knowingly and intentionally appearing in a state of nudity or exposing to view any portion of the female nipple or any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, genitals, buttocks, or anal cleft or cleavage of the buttocks when such act may be viewed by another person.

(2) Knowingly and intentionally engaging in sexual intercourse, masturbation, sodomy, or any sexual act prohibited by law, or knowingly and intentionally simulating sexual intercourse, masturbation, sodomy, or any sexual act prohibited by law, when such act or simulated act may be viewed by another person.

(3) Knowingly and intentionally touching, fondling, or caressing the breasts, buttocks, anus or genitals of himself or another person when such act may be viewed by another person.

(4) Knowingly and intentionally aiding, abetting, or encouraging any person to touch, fondle, or caress the breasts, buttocks, anus or genitals of himself or another person when such act may be viewed by another person.

(5) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, video tape, or other electronic or mechanical visual reproduction depicting any or the conduct prohibited in subsections (a)(1) through (4) of this section. The prohibitions of this subsection shall not apply to any regular programming as broadcast on a commercial or public television station which is not in violation of state obscenity laws, and nothing in this chapter shall prescribe or prohibit private sexual conduct between consenting adult persons which is not exposed to public view and which is not otherwise in violation of any law.

(b) It shall be unlawful and shall constitute an offense of strict liability for any person licensed to sell alcoholic liquor in a Class B club or cereal malt beverages for consumption on any premises licensed hereunder, or any operator, agent, or employee of such licensee, to permit any person under the age of 21 years to remain in or about such licensed premises, unless at least 50 percent of such licensed establishment's proceeds are derived from the bona fide sale of food. This section shall not apply to persons under 21 years of age who are on the premises if accompanied by their parent or legal guardian. In addition, this subsection shall not apply to, and shall exempt, the following licensees or permit holders, and any owners, officers or employees thereof:

(1) Premises licensed to sell cereal malt beverages for consumption thereon which are used primarily as a pool hall (a premises where the primary business is related to customers engaging in billiards or pool), bowling alley, golf course, fairgrounds or rodeo grounds; or

(2) A private dining room of a hotel or motel, if the dining room is rented or made available on a special occasion only to an individual organization for a private party, and if no sale of alcoholic liquor takes place.

It shall be a defense to the prosecution under this subsection if the person exhibited to a defendant charged hereunder an unexpired driver's license or other official or apparently official document containing a photograph of the person which purported to establish that such person was 21 or more years of age.
(Ord. No. G-93-04, § 1(4-2), (4-3), (4-6), (4-8), 2-22-1993; Ord. No. G-97-01, § 1(4-5), 7-22-1997)

Secs. 4-4—4-24. Reserved.

ARTICLE II. ALCOHOLIC LIQUOR

Sec. 4-25. Retailer's license required.

No alcoholic liquor shall be sold or offered for sale at retail by any person within the corporate city limits unless such person shall be licensed therefor under the provisions of state law.

(Code 1965, § 4-201; Code 1977, § 4-17; Ord. No. G-92-04, § 1(4-17), 3-9-1992)

State law reference—Rights of persons holding state retailer's license, K.S.A. 41-308.

Sec. 4-26. Retailer's license tax.

There is hereby levied an annual occupation or license tax, in an amount set forth in the city fee schedule, upon each retailer of alcoholic liquor for consumption off the premises (sales in the original package only). The tax shall be paid before business is begun under an original state license and within ten days after the renewal of a state license.

(Code 1965, § 4-202; Code 1977, § 4-18; Ord. No. G-92-04, § 1(4-18), 3-9-1992)

State law reference—License fees, K.S.A. 41-310.

Sec. 4-27. Presentation of retailer's license prerequisite to issuance of city tax receipt.

A holder of a license for the retail sale of alcoholic liquor by the package in the city, issued by the state director of alcoholic beverage control, shall present such license when applying to pay the occupation tax levied in section 4-26, and the tax shall be received and receipt issued, for the period covered by the state license, by the city clerk.

(Code 1965, § 4-203; Code 1977, § 4-19; Ord. No. G-92-04, § 1(4-19), 3-9-1992)

Sec. 4-28. Display of occupation tax receipt.

Every person licensed pursuant to this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Code 1965, § 4-204; Code 1977, § 4-20; Ord. No. G-92-04, § 1(4-20), 3-9-1992)

State law reference—Display of state license, K.S.A. 41-325.

Sec. 4-29. Hours of sale.

(a) The sale at retail of alcoholic liquor in the original package is allowed within the city on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m. and on Memorial Day, Independence Day and Labor Day.

(b) No person shall sell at retail any alcoholic liquor before 9:00 a.m. or after 11:00 p.m. on any day when the sale is permitted.

(Code 1965, § 4-205; Code 1977, § 4-21; Ord. No. G-92-04, § 1(4-21), 3-9-1992)

State law reference—Similar provisions, K.S.A. 41-712.

Sec. 4-30. Class B private club license tax.

There is hereby levied an annual city license tax on each club licensed as a Class B club under the provisions of state law, in an amount set forth in the city fee schedule, which tax shall be paid before business is begun under an original state license and within ten days after any renewal of a state license.

(Code 1965, § 4-212; Code 1977, § 4-22; Ord. No. G-92-04, § 1(4-22), 3-9-1992)

State law references—Licensing and regulation of clubs, K.S.A. 41-2601 et seq.; annual license fees, K.S.A. 41-2622.

Sec. 4-31. Consumption generally.

(a) No person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways, or inside vehicles while on the public streets, alleys, roads or highways; provided, however, that alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the board of commissioners. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event. No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the board of commissioners. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the Club and Drinking Establishment Act;

(2) Upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place;

(3) In a lodging room of any hotel, motel or boardinghouse by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place;

(4) In a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place; or

(5) On the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b, or 41-354, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to K.S.A. 27-311 et seq.

(4) On property exempted from this subsection pursuant to K.S.A. 41-719(d), (e), or (f).

(d) Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than $50.00 nor more than $200.00, or by imprisonment for not more than six months, or by both such fine and imprisonment.
(Code 1965, § 4-206; Code 1977, § 4-24; Ord. No. G-92-04, § 1(4-24), 3-9-1992)

State law reference—Similar provision, K.S.A. 41-719.

Sec. 4-32. Possession in beer parlors, taverns, pool halls or places where cereal malt beverages sold.

(a) It shall be unlawful for any person to take any alcoholic liquor into any beer parlor, tavern, pool hall or place of business where cereal malt beverage is sold, and it shall be unlawful for any person to have in his possession or under his control any alcoholic liquor while in any beer parlor, tavern, pool hall or place of business where cereal malt beverage is sold.

(b) Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than $50.00 nor more than $200.00, or by imprisonment for not more than six months, or by both such fine and imprisonment.
(Code 1965, § 4-207; Code 1977, § 4-25; Ord. No. G-92-04, § 1(4-25), 3-9-1992)

Secs. 4-33—4-54. Reserved.

ARTICLE III. CEREAL MALT BEVERAGES

Sec. 4-55. Retail license required.

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 city limits.
(Code 1977, § 4-42; Ord. No. G-92-04, § 1(4-42), 3-9-1992; Ord. No. G-96-06, § 1(4-42), 10-22-1996)

State law reference—Similar provisions, K.S.A. 41-2702.

Sec. 4-56. Application for license.

Any person desiring a license required by this article shall make an application therefor to the board of commissioners, and the application shall be accompanied by the required license fee for each place of business for which the person desires the license. The license fee shall be returned to the applicant should the license not meet the approval of the board. The application shall be verified and upon a form prepared by the attorney general of the state and shall contain:

(1) The name and residence of the applicant, and the length of time the applicant has resided in the city, the county, and the state;

(2) The particular place for which a license is desired;

(3) The name of the owner of the premises upon which the place of business is located; and

(4) A statement that the applicant is a citizen of the United States and not less than 21 years of age, and that he has not, within two years immediately preceding the date of making the application, been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle under the influence of intoxicating liquor, or the violation of any other intoxicating liquor law of any state, municipality, or the United States.

(Code 1977, § 4-43; Ord. No. G-92-04, § 1(4-43), 3-9-1992; Ord. No. G-96-06, § 1(4-43), 10-22-1996)

State law reference—Similar provisions, K.S.A. 41-2702.

Sec. 4-57. Persons eligible to receive licenses; issuance.

(a) If the application required by this article is in proper form and accompanied by cash in the amount of the license fee, the board of commissioners shall examine the application and, after such examination, shall, if it approves the same, issue a license to the applicant, provided no license shall be issued to:

(1) A person who is not a resident of the city, and who has not been a resident in good faith of the state for at least one year prior to the application, and a resident of the county for at least six months;

(2) A person who is not of good character and reputation in the community in which the person resides;

(3) A person who is not a citizen of the United States;

(4) 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 any state, municipality, or the United States;

(5) A partnership, unless one of the partners is a resident of the city and unless all the members of such partnership shall otherwise be qualified to obtain a license;

(6) A corporation, if the 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 the citizenship and residency requirements;

(7) A corporation, if the 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 an aggregate more than 25 percent of the stock of a corporation which:

a. Has had a retailer's license revoked under section 4-61, and amendments thereto; or

b. Has been convicted of a violation of the Drinking Establishment Act or the cereal malt beverage laws of the state or any municipality within the state;

(8) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualification required of the licensee;

(9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection (a)(9) shall not apply in determining eligibility for a renewal license; or

(10) A person whose place of business is not equipped with at least two convenient, sanitary fly-proof toilets, provisions for thoroughly washing used serving vessels with pure, clean water and sterilizing with chlorine disinfectant and rinsing, for which three separate vats shall be used, and the vats shall be connected with the sewer facilities.

(b) No license required by this article shall be issued to sell or serve cereal malt beverages for consumption on or off the premises, within 500 feet of any school grounds, or within 150 feet of any church.

(c) No license shall be issued unless the place of business can comply with all restrictions and provisions in regard to location and zones.

(d) A person applying for a license as case retailer must be engaged in business in the city.

(e) No license to sell cereal malt beverages shall be granted until the application therefor shall have been on file in the office of the city clerk at least five days. It shall be the duty of the city clerk to notify the chief of police of all applications for such licenses, and it shall be the duty of the chief of police, before granting of such license, to make a full, complete and thorough investigation of the applicant relative to his fitness for such license; and if such investigation reveals that such applicant is not a fit and proper person for such license, to file with the city

clerk written objection to the granting of such license, stating in detail the reasons why such license should not be granted to such applicant. The report shall be made within ten days after receipt of the city clerk's notice.

(f) No license shall be issued unless the proposed place of business can comply with all city ordinances and state laws. To insure such compliance, the city clerk shall, within five days after receipt of application for license, notify the city inspector, fire chief, and state inspection officer to conduct an inspection. After the persons have conducted their inspections, they shall submit their reports to the city clerk within ten days after receipt of the city clerk's note. Their approval must be obtained before a license can be considered for approval by the board of commissioners.

(Code 1977, § 4-44; Ord. No. G-79-14, § 1, 12-12-1979; Ord. No. G-82-28, § 1, 11-24-1982; Ord. No. G-92-04, § 1(4-44), 3-9-1992; Ord. No. G-96-06, § 1(4-44), 10-22-1996)

State law reference—Similar provisions, K.S.A. 41-2703.

Sec. 4-58. License fees.

All license fees payable under this chapter shall be paid to the city in accordance with the city fee schedule.

(Code 1977, § 4-45; Ord. No. G-79-14, § 2, 12-12-1979; Ord. No. G-92-04, § 1(4-45), 3-9-1992; Ord. No. G-96-06, § 1(4-45), 10-22-1996; Ord. No. G-08-07, § 1(4-45), 12-9-2008)

Sec. 4-59. License not assignable or transferable.

No license issued pursuant to this article shall be assignable or transferable.

(Code 1977, § 4-46; Ord. No. G-92-04, § 1(4-46), 3-9-1992; Ord. No. G-96-06, § 1(4-46), 10-22-1996)

Sec. 4-60. Posting of license.

All licenses issued pursuant to this article shall be posted in a conspicuous place in the place of business.

(Code 1977, § 4-47; Ord. No. G-92-04, § 1(4-47), 3-9-1992; Ord. No. G-96-06, § 1(4-47), 10-22-1996)

Sec. 4-61. Revocation or suspension of license.

(a) The board of commissioners, upon five days' notice to the licensee, shall revoke or suspend such license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) The licensee has violated any of the provisions of this article, or any other ordinance of the city prescribing rules or regulations relating to cereal malt beverages, or if a licensee has violated any law of the state for which violations the city is authorized by law to revoke the license;

(3) The licensee has become ineligible to obtain a license under this article;

(4) Drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business;

(5) The sale of cereal malt beverages to those under the age for consumption of cereal malt beverage;

(6) The nonpayment of any license fee;

(7) Permitting any gambling in or upon such premises;

(8) Permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;

(9) The employment of persons under 18 years of age in dispensing or selling cereal malt beverages;

(10) The employment of persons who have been adjudged guilty of a felony or of any violation of the intoxicating liquor law; or

(11) The sale or possession of, or permitting any person to use or consume on the licensed premises any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto.

(b) It shall result in revocation of the license if the owner, manager, operator, proprietor, employee or person in charge of any place of business where cereal malt beverages are sold within the city shall allow, permit or suffer any person to indulge in or practice any disorderly, rough or aggressive conduct, or allow anyone to challenge to fight, or allow anyone to engage in lewd, lascivious, indecent or boisterous conduct, or to use obscene, indecent or profane language therein. It shall be prima facie evidence that the owner, manager, operator, proprietor, employee or person in charge to do so, and the owner, manager, operator, proprietor, employee or person in charge fails to immediately and forthwith contact the police in regard to the person who refuses to leave the premises. Any person who refuses to leave the premises after being requested by the owner, manager, operator, proprietor, employee or person in charge to do so, shall be deemed a trespasser and subject to prosecution.

(c) The provisions of subsections (a)(8) and (11) of this section shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court of the county in the manner as now provided by law in appeals from the probate court; provided, that any appeal taken from an order revoking or suspending any such license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

(e) In case of the revocation of the license of any licensee, no new license shall be issued to such person, or any person acting for or on his behalf, for a period of six months thereafter.
(Code 1977, § 4-48; Ord. No. G-79-14, §§ 3, 4, 12-12-1979; Ord. No. G-87-12, § 1, 12-14-1987; Ord. No. G-92-04, § 1(4-48), 3-9-1992; Ord. No. G-96-06, § 1(4-48), 10-22-1996)

Sec. 4-62. Manner of sale restricted by license.

A person licensed to sell cereal malt beverages only at retail in original and unopened containers and not for consumption on the premises shall not sell such beverages in any other manner.
(Code 1977, § 4-49; Ord. No. G-92-04, § 1(4-49), 3-9-1992; Ord. No. G-96-06, § 1(4-49), 10-22-1996)

Sec. 4-63. Regulation of sale or other disposition.

(a) No cereal malt beverages may be sold, given away or consumed at any place of business:

(1) Between the hours of 12:00 midnight and 6:00 a.m.;

(2) On Sunday, except as follows:

a. In a place of business which is licensed to sell cereal malt beverages for consumption on the premises and which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the premises; and

b. The sale at retail of cereal malt beverage in the original package is allowed within the city on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m.

(b) No private room or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club pursuant to the Club and Drinking Establishment Act.

(c) Each place of business shall be open to the public and to the police at all times during business hours, except that a premises licensed as a club pursuant to the Club and Drinking Establishment Act shall be open to law enforcement officers and not to the public.

(d) No licensee shall permit a person under the legal age for consumption of cereal malt beverages to consume or purchase any cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverages to possess cereal malt beverages in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverages if:

(1) The licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers 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 percent 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.

(e) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.

(f) Cereal malt beverages may be sold on premises which are licensed pursuant to the provisions contained in K.S.A. 41-2701 et seq. and the Club and Drinking Establishment Act at any time when alcoholic liquor is allowed by law to be served on the premises.

(g) All places of business licensed to sell cereal malt beverages for consumption on the premises under the provisions of this article shall be vacated between the hours of 4:00 a.m. and 6:00 a.m., but this provision shall not apply if the licensed premises are also currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.
(Code 1977, § 4-50; Ord. No. G-80-16, § 1, 10-22-1980; Ord. No. G-81-12, § 2, 8-26-1981; Ord. No. G-81-19, § 2, 12-23-1981; Ord. No. G-92-04, § 1(4-50), 3-9-1992; Ord. No. G-96-06, § 1(4-50), 10-22-1996)

State law reference—Similar provisions, K.S.A. 41-2704.

Sec. 4-64. Restrictions as to manufacturers, distributors or wholesalers.

(a) No manufacturer, distributor or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such manufacturer, distributor or wholesaler, furnish, give, lend or rent any interior decorations other than signs, costing in the aggregate more than $100.00 in any one calendar year, for use in or about or in connection with any one establishment on which products of the manufacturer, distributor or wholesaler are sold. No person engaged in the business of manufacturing, distributing or wholesaling cereal malt beverages shall, directly or indirectly, pay for, or advance, furnish, or lend money for the payment of any license for another.

(b) No wholesaler or distributor shall sell any cereal malt beverage to any person who has not secured a license as provided for in this article.
(Code 1977, § 4-51; Ord. No. G-92-04, § 1(4-51), 3-9-1992; Ord. No. G-96-06, § 1(4-51), 10-22-1996)

State law reference—Similar provisions, K.S.A. 41-2705.

Sec. 4-65. Consumption in public places.

No person shall drink or consume cereal malt beverages upon the public streets, parks, or elsewhere where the general public has access, whether or not an admission or other fee is charged or collected, or upon property owned by the state or any governmental subdivision thereof, or inside vehicles while upon public streets; provided, however, that the city golf course clubhouse, also known as Hillcrest Golf Course Clubhouse, shall be excluded from the provisions of this section, and provided that the city board of commissioners, by resolution, may for special events exempt certain property, the title of which is vested in the city.
(Ord. No. G-92-04, § 1(4-52), 3-9-1992; Ord. No. G-96-06, § 1(4-52), 10-22-1996)

Chapter 5

RESERVED