

ARTICLE 1. GENERAL PROVISIONS

3-101. DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

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

(b) 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.

(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, trust beneficiaries or associates (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) General Retailer means a person who has a license to sell cereal malt beverages at retail.

(h) Limited Retailer means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(i) Place of Business. Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(j) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

(Code 1988)

3-102. **RESTRICTION ON LOCATION.** (a) No alcoholic liquor shall be sold or served by a person whose place of business or other premises are located within 200 feet 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.

(b) The distance location of subsection (a) above shall not apply to a club, drinking establishment, caterer or temporary permit holder when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(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.

(Code 1988)

3-103. **MINORS ON PREMISES.** (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 or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.

(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.

(Code 1988)

3-104. **CONSUMPTION ON PUBLIC PROPERTY.** No person shall drink or consume any alcoholic liquor on city owned public property. However, this prohibition shall not apply to Frazier Park and Bentwood Municipal Golf Course which is property owned by the city. (K.S.A. Supp. 41-719; Code 1988)

3-105. **PUBLIC SALE; CONSUMPTION.** (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in

any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.

(b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.

(c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 *et seq.* if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Code 1981, 3-207; Code 1988)

3-106. IDENTIFICATION CARD. (a) It shall be unlawful for any person to:

(1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(4) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(b) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal

malt beverage for use in the sale, purchase or consumption of any cereal malt beverage. (Code 1988)

3-107. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.

(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor.

(K.S.A. 41-715, 41-2721; Code 1988)

3-110. PROHIBITED CONDUCT ON PREMISES. The governing body of the city hereby finds and determines:

Exposure by waiters, waitresses, and entertainers is prohibited. It shall be unlawful for any person, while acting as a waiter, waitress or entertainer of alcoholic liquor pursuant to K.S.A. 41-2601 *et seq.* or the sale and/or consumption of cereal malt beverages pursuant to K.S.A. 41-2701 *et seq.* to:

(a) Expose his or her genitals, pubic hair, buttocks, anal region, natal cleft, perineum or pubic hair region; or

(b) Expose any devise, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(c) Expose any portion of the female breasts at or below the areola thereof.

(Ord. 764, Sec. 1)

3-111. SAME; EMPLOYMENT OR PAYMENT NOT NECESSARY FOR OFFENSE. A person shall be deemed to be a waiter, waitress or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed. (Ord. 764, Sec. 4)

3-112. SAME; EXPOSURE BY PERFORMERS IN PUBLIC; PROHIBITED. It shall be unlawful for any person who, while participating in any live act, demonstration or exhibition in any public place, place open to the public, or place open to public view, to:

(a) Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(b) Expose any devise, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(c) Expose any portion of the female breasts at or below the areola.

(Ord. 764, Sec. 5)

3-113. SAME; COUNSELING OR ASSISTING. It shall be unlawful for any person to cause, permit procure, counsel or assist any person to expose or simulate exposure as prohibited in sections 3-110 or 3-112. (Ord. 764, Sec. 6)