

CHAPTER III. BEVERAGES

ARTICLE 2. ALCOHOLIC LIQUOR

SECTIONS

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3-201. DEFINITIONS.

- (a) **Alcoholic Beverage or Alcoholic Liquor.** As used in this article includes the varieties of liquor as defined in K.S.A. 41-102, namely 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.
- (b) **Club** means a class A or class B club.
 - (1) **Class A Club** means a premises which is owned or leased by a corporation, partnership, business trust or association and which is separated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, 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.
 - (2) **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.
- (c) **Drinking establishment** means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

- (d) **Caterer** means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.
- (e) **Temporary Permit** shall mean a permit which allows the holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which maybe open to the public, subject to the terms of such permit.

(Ord. 996C; 08-17-87)
(Code 2000)
(Ord. 1992C; 05-19-03)

3-202. CURRENT STATE LICENSE.

- (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas Liquor Control Act" without first having procured a license so to do as required by said Act to sell the same. Any person violating the provisions of this Section shall upon conviction be punished by a fine of not to exceed \$500 or by imprisonment not to exceed three months, or by both such fine and imprisonment.
- (b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of Alcoholic Beverage Control shall present such license to the City Clerk when applying to pay the occupation tax levied in section 3-210 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Code 1973, 3-303)
(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)

- 3-203. POSTING OF RECEIPT.** Every licensee under this Article shall cause the City alcoholic retailer's occupation tax receipt to be prominently displayed next to or below the state license in a conspicuous place on the licensed premises. Any person violating this section, upon conviction, shall be fined not more than \$500.

(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)

3-204. HOURS OF OPERATION FOR RETAIL.

- (a) No person shall sell at retail any alcoholic liquor:
 - (1) on Thanksgiving Day or Christmas Day or Easter Sunday; or
 - (2) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or
 - (3) before 12 noon or after 8 p.m. on Sunday.
- (b) Alcoholic liquor may be sold on Memorial Day, Independence Day and Labor Day.

- (c) Any person who shall violate the provisions of this Section shall upon conviction of any such violation be subject to a fine not to exceed \$500 or by imprisonment not to exceed six months or by both fine and imprisonment.

(Ord. 1476C; 03-20-95)

(Code 2000)

(Ord. 1992C; 05-19-03)

(Ord. 1994C; 06-16-03)

(Ord. 2139C; 11-07-05)

- 3-205. PENALTY.** Any person, co-partnership or association having a state license to sell alcoholic liquor by the package who shall violate any provisions of Sections 3-202, 3-203, or 3-204 shall, upon conviction, be fined as stated in the Section. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues: Provided, that nothing herein shall be construed to prohibit the City from collecting the occupation tax by any procedure authorized by law.

(Code 1984)

(Code 2000)

(Ord. 1992C; 05-19-03)

3-206. UNLAWFUL ACTS; MINORS, INCAPACITATED PERSONS.

- (a) No person shall knowingly sell, give away, dispose of, 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.
- (b) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor from any person except as authorized by law.
- (c) No person under 21 years of age shall possess or consume alcoholic liquor except as authorized by law.
- (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.
- (e) Violation of Subsection (a) of this Section shall be punishable by a fine of not less than One Hundred Dollars(\$100.00) and not exceeding Two Hundred and Fifty Dollars (\$250.00) or imprisonment not exceeding thirty (30) days, or both.
- (f) Violation of Subsection (b) or Subsection (c) of this Section by a person 18 or more years of age but less than 21 years of age shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Two Hundred and Fifty Dollars (\$250.00) or by forty (40) hours of public service, or by both if committed on premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated, or by a fine of not less than Twenty-Five Dollars (\$25.00) and not more than Two Hundred and Fifty Dollars (\$250.00), or by ten (10) hours of public service, or by both, if committed on any other premises.
- (g) Violation of Subsection (d) of this Section by a person 18 or more years of age but less than 21 years of age shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Two Hundred and Fifty Dollars (\$250.00), or by forty (40) hours of public service, or by both.

(Ord. 996C; 08-17-87)

(Code 2000)

(Ord. 1992C; 05-19-03)

3-207. DRINKING ON STREETS OR IN PUBLIC PLACES.

- (a) It shall be unlawful for any person to drink or consume alcoholic liquor upon any public street, alley, road, highway or thoroughfare; or inside vehicles while on the public streets, alleys, road, highway or thoroughfare.

- (b) It shall be unlawful for any person to drink or consume alcoholic liquor on private property, including beer parlors, taverns, pool halls, or places to which the general public has access, whether or not an admission or other fee is charged or collected 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 and by guest 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;
 - 3. in a lodging room of any hotel, motel or boarding house 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; or
 - 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.

- (c) Except as provided in Section 3-208, no person shall drink or consume alcoholic liquor on public property owned or leased by the state or any governmental subdivision thereof.

(Ord. 1666C; 03-10-97)
(Code 2000)
(Ord. 1992C; 05-19-03)

3-208 EXEMPTIONS

- (a) The provisions of Section 3-207 shall not apply to the possession or consumption of alcoholic liquor upon the following property owned or leased by the City, subject to the following conditions:

1. The property known and operated as the Ironhorse Golf Club, including the clubhouse and eighteen-hole golf course; provided further, that no person shall possess or consume any alcoholic liquor at the Ironhorse Golf Club without the approval of the manager or person in charge of said Ironhorse Golf Club. The manager or person in charge of said Ironhorse Golf Club may, with the approval of the City Administrator, issue rules and regulations not inconsistent with the ordinances of the City and the laws of the State of Kansas further restricting, regulating, or prohibiting the possession and consumption of alcoholic liquor at Ironhorse Golf Club.
2. The property known and operated as the Leawood Community Center, including the lower level and courtyard areas of City Hall; provided further, that no person shall possess or consume any alcoholic liquor at the Leawood Community Center without the approval of the Parks & Recreation Director or person in charge of said Leawood Community Center. The Director or person in charge of said Leawood Community Center may, with the approval of the City Administrator, issue rules and regulations not inconsistent with the ordinances of the City and the laws of the State of Kansas further restricting, regulating, or prohibiting the possession and consumption of alcoholic liquor at Leawood Community Center.
3. The properties known and operated as City Park, Ironwoods Park, I-Lan Park or Gezer Park, provided that no person shall possess or consume any alcoholic liquor at City Park, Ironwoods Park, I-Lan Park or Gezer Park without the approval of the Parks and Recreation Director or other person in charge of City Park, Ironwoods Park, I-Lan Park or Gezer Park. The Director or person in charge of said Parks may, with the approval of the City Administrator, issue rules and regulations not inconsistent with the ordinances of the City and the laws of the State of Kansas further restricting, regulating or prohibiting the possession and consumption of alcoholic liquor at said Parks.

(Ord. 1666C; 03-10-97)
(Code 2000)
(Charter Ord. 35)
(Ord. 1992C; 05-19-03)
(Ord. 2410C; 09-08-09)
(Ord. 2484C; 03-07-11)

3-209. OPEN CONTAINER.

- (a) No person shall transport in any vehicle upon a highway or street any alcoholic liquor unless such liquor 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. § 41-804)

(Code 1984)

(Code 2000)

(Ord. 1992C; 05-19-03)

See Standard Traffic Ordinance, as incorporated by section 14-101 of this Code.

- 3-210. CONSUMPTION WHILE DRIVING.** No person shall consume any alcoholic liquor while operating any vehicle upon any street or highway. Violation of this subsection 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.

(Code 1984)

(Code 2000)

(Ord. 1992C; 05-19-03)

See Standard Traffic Ordinance, as incorporated by section 14-101 of this Code.

3-211. OCCUPATIONAL LICENSE FEE FOR RETAIL LIQUOR STORES.

- (a) The application for retail liquor occupation license shall be accompanied by a fee of \$300 and shall be verified. Upon receipt of the fee and application in correct form, the City Clerk shall issue a receipt-occupation tax to the applicant for the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The receipt shall be displayed in a conspicuous place on the licensed premises. All license fees shall be nonrefundable and nontransferable.
- (b) Any person holding a valid Kansas retailer's license for alcoholic liquors for consumption off the premises shall furnish to the City Clerk, on a form provided, the following information:
 - (1) Name of applicant;
 - (2) Address of applicant;
 - (3) Address of premises where liquor sold;
 - (4) If applicant is a corporation, name and address of registered agent;
 - (5) If applicant is a partnership, name and address of each partner;
 - (6) Length of applicant's residence in Kansas;
 - (7) Does applicant presently hold any other liquor license?
 - (8) Has applicant's license ever been revoked or suspended?
 - (9) Does applicant have a Kansas State Retail Liquor license?
 - (10) When does it expire?

- (11) Owner of premises licensed?
- (12) If applicant is not the owner, give date and term of lease or other rental agreement.

(K.S.A. § 41-208, §41-310, §41-325, §41-2622)
(Code 1973, 3-302)
(Code 1984)
(Code 2000)
(Ord. 1914C; 09-04-01)
(Ord. 1992C; 05-19-03)

3-212. ADDITIONAL REGULATIONS.

- (a) No club licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated, or employee or agent of such a club, shall:
 - (1) Offer or serve any free drink to any person;
 - (2) Serve more than two drinks to one person at one time;
 - (3) Sell, offer to sell or serve to any person an unlimited number of drinks during any said period of time for a fixed price, except at private functions not open to the general club membership;
 - (4) Sell, offer to sell or serve any drink to any person on any one day at a price less than that charged all other purchasers of drinks on that day;
 - (5) Increase the volume of alcoholic liquor contained in a drink or the size of a drink of cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day;
 - (6) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes; or
 - (7) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under Subsections (a)(1) through (6).
- (b) Nothing in Subsection (a) shall be construed to prohibit a club from:
 - (1) Offering free food or entertainment at any time;
 - (2) Including a drink as a part of a meal package; or
 - (3) Selling or delivering wine by the bottle or carafe.
- (c) Violation of any provision of this Section is punishable by a fine of not less than One Hundred Dollars (\$100.00) and not exceeding Two Hundred Fifty Dollars (\$250.00), or imprisonment not exceeding thirty (30) days, or both.

(Ord. 899C; 02-03-86)
(Code 2000)
(Ord. 1992C; 05-19-03)

3-213. LICENSE FEE FOR DRINKING ESTABLISHMENTS.

- (a) It shall be unlawful for any person granted a license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the City of Leawood without first obtaining a City license from the City Clerk.

- (b) No City license to sell or serve any alcoholic liquor shall be issued until the applicant has made application and made payment in the amount of Two Hundred and Fifty Dollars (\$250.00) to the City. Upon receipt of payment and application in correct form and in compliance with all other requirements of the City of Leawood, the City Clerk shall issue a City license to the applicant. The license shall cover the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The City license shall be displayed in a conspicuous place on the licensed premises. All license fees are nonrefundable and nontransferable.

(Ord. 1028C; 01-04-88)

(Code 2000)

(Ord. 1914C; 09-04-01)

(Ord. 1992C; 05-19-03)

- 3-214. HOURS OF OPERATION FOR DRINKING ESTABLISHMENTS.** No club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(Ord. 996C; 08-17-87)

(Code 2000)

(Ord. 1992C; 05-19-03)

3-215. CATERERS.

- (a) **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 alcohol by the drink within the City without obtaining a local caterer's license from the City Clerk.

(b) **License Fee.**

- (1) There is hereby levied an annual license fee in the amount of One Hundred Dollars (\$100.00) 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 original state license and within five (5) days after any renewal of the state license.
- (2) All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of the 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.
- (3) The license period shall extend for the period covered by the state license. All license fees shall be nonrefundable and nontransferable.
- (4) 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.

- (c) **Business Regulations.** No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.

- (d) **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 48 hours prior to the event that 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. 996C; 08-17-87)
(Code 2000)
(Ord. 1914C; 09-04-01)
(Ord. 1992C; 05-19-03)

3-216. TEMPORARY PERMITS.

- (a) **Permit Required.** It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the City without first obtaining a local temporary permit from the City Clerk.
- (b) Any temporary permit shall be approved by the City Council of Leawood. City Council may authorize the Clerk to issue a temporary permit to sell or serve alcoholic liquor within the City if it determines:
- (1) The event is sponsored by a non-profit or charitable organization; and
 - (2) All net proceeds are to be used for charitable purposes or for a defined program for community betterment.
- (c) **Permit Fee.**
- (1) There is hereby levied a temporary permit fee in the amount of Fifty Dollars (\$50.00) per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.
 - (2) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the City where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.
- (d) **City Temporary Permit.** It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least thirty (30) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:
- (1) The name of the applicant;
 - (2) The group for which the event is planned;
 - (3) The location of the event;
 - (4) The date and time of the event;
 - (5) Any anticipated need for police, fire, or other municipal services.
- (e) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and filing of the written application, the City Clerk shall issue a temporary permit to the applicant.
- (f) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.
- (g) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.

- (h) A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which shall be specified in the permit. Not more than four (4) temporary permits may be issued to any one applicant in a calendar year.
- (i) All temporary permit fees shall be nonreturnable and nontransferable.
 - (Ord. 996C; 08-17-87)
 - (Code 2000)
 - (Ord. 1914C; 09-04-01)
 - (Ord. 1992C; 05-19-03)

3-217. REVOCATION OF ALCOHOLIC BEVERAGE LICENSES. The Governing Body of the City, upon five (5) days notice to any person licensed under this Article, shall revoke such license for any of the reasons listed hereinafter in this Ordinance.

Basis for Revocation:

- (a) If the licensee has fraudulently obtained the license by giving false information and the application thereof;
- (b) If the licensee has violated any of the provisions of this Article or has become ineligible to obtain a license under this Article;
- (c) The drunkenness of the licensee or permitting any intoxicated person to remain on the premises where such licensee is serving;
- (d) Sale of alcoholic liquor to any person under the legal age for the consumption of alcoholic liquor;
- (e) For permitting any gambling in or upon any premises licensed under this Article except as specifically made lawful by the laws of the State of Kansas;
- (f) For the employment of any person under the age of 18 years in dispensing alcoholic liquors;
- (g) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor.

- (Ord. 996C; 08-17-87)
- (Code 2000)
- (Ord. 1992C; 05-19-03)