

CHAPTER III. BEVERAGES

ARTICLE 2. ALCOHOLIC LIQUOR

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- 3-201. DEFINITIONS.** For the purpose of this Chapter, the following definitions shall apply unless the context clearly requires otherwise:
- (a) **Alcoholic Beverage** or Alcoholic Liquor 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, and includes any cereal malt beverage as defined in Section 3-101 of this Code.
 - (b) **Caterer** means an individual, partnership or corporation that possesses a drinking establishment or club license, 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.

- (c) **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 of alcoholic beverage control of the State of Kansas Department of Revenue, 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.
- (d) **Common Consumption Area** shall mean a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas Liquor Control Act or the Club and Drinking Establishment Act where the possession and consumption of alcoholic liquor is allowed pursuant to a Common Consumption Area Permit. The boundaries of any Common Consumption Area must be clearly marked using a physical barrier or any apparent line of demarcation.
- (e) **Common Consumption Area Permit** shall mean a permit, issued by the Director, allowing the possession and consumption of alcoholic liquor in the area described by such permit.
- (f) **Director** shall mean the Director of the Kansas Division of Alcoholic Beverage Control.
- (g) **Drinking establishment** means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (h) **Retail Liquor Store** shall mean premises licensed by the State of Kansas to sell and offer for sale at retail and delivery in the original package, alcoholic liquor for use or consumption off and away from the premises specified in such license.
- (i) **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 may be open to the public, subject to the terms of such permit.

(Ord. 996C; 08-17-87)
(Code 2000)

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

(Ord. 2662C; 05-19-14)

(Ord. 2720C; 02-16-15)

(Ord. 2878C; 02-19-18)

(Ord. 2934C; 03-18-19)

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 in Section 3-201 without first having procured a license as required by state and local law to sell the same. Any person violating the provisions of this Section shall upon conviction be punished by a fine of not to exceed Five Hundred Dollars (\$500) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.
- (b) The holder of a retail liquor store, drinking establishment or club license issued by the Director shall present such license to the City Clerk when applying to pay the occupational/license fee and the fee 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)
(Ord. 2662C; 05-19-14)
(Ord. 2720C; 02-16-15)

- 3-203. POSTING OF RECEIPT.** Every licensee under this Article shall cause the City alcoholic retailer's occupational/license fee 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 Five Hundred Dollars (\$500).

(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)
(Ord. 2720C; 02-16-15)

3-204. HOURS OF OPERATION FOR RETAIL LIQUOR STORES.

- (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 9:00 a.m. or after 8 p.m. on Sunday.
- (b) 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 Five Hundred Dollars (\$500) or by imprisonment not to exceed six (6) 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)
(Ord. 2720C; 02-16-15)
(Ord. 3054; 07-19-21)

3-205. PENALTY. Any person, 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 occupational/license fee by any procedure authorized by law.

(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)
(Ord. 2720C; 02-16-15)

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

SECTION 3-206 IS HEREBY REPEALED.

See Uniform Public Offense Code, incorporated by Section 11-101 of this Code.

(Ord. 996C; 08-17-87)
(Code 2000)
(Ord. 1992C; 05-19-03)
(Ord. 2662C; 05-19-14)
(Ord. 2720C; 02-16-15)

3-207. CONSUMPTION OF ALCOHOLIC LIQUOR PROHIBITED IN CERTAIN PLACES.

- (a) It shall be unlawful for any person to drink or consume or possess an open container of alcoholic liquor upon any public street, alley, road, highway or thoroughfare, except when such areas are located within an established Common Consumption Area; or inside vehicles while on the public streets, alleys, roads, highways or thoroughfares.
- (b) It shall be unlawful for any person to 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. In an area located within an established Common Consumption Area and subject to a Common Consumption Area Permit;
 - 3. 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 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 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;
 - 5. 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

6. On the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by state law.
- (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)

(Ord. 2662C; 05-19-14)

(Ord. 2720C; 02-16-15)

(Ord. 2878C; 02-19-18)

3-208

EXEMPTIONS

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

4. The property known and operated as the Leawood Justice Center. Provided that no person shall possess or consume any alcoholic liquor at the Leawood Justice Center without the approval of the Chief of Police or other person in charge of the Leawood Justice Center. The Chief or other person in charge of the Leawood Justice 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 said Leawood Justice Center.

(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)
(Ord. 2644C; 11-04-13)
(Ord. 2720C; 02-16-15)

3-209. OPEN CONTAINER. – REPEALED

SECTION 3-209 IS HEREBY REPEALED.

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

(K.S.A. § 41-804)
(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)
(Ord. 2662C; 05-19-14)
(Ord. 2720C; 02-16-15)

3-210. CONSUMPTION WHILE DRIVING. – REPEALED

SECTION 3-210 IS HEREBY REPEALED.

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

(Code 1984)
(Code 2000)
(Ord. 1992C; 05-19-03)
(Ord. 2662C; 05-19-14)
(Ord. 2720C; 02-16-15)

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

- (a) Any person holding a valid Kansas retailer's license to sell and offer for sale at retail and delivery in the original package, alcoholic liquor for use or consumption off and away from the premises specified in such license, must obtain an occupational license for operation in the City of Leawood by filing an application for a retail liquor store occupational license with the City Clerk.

- (b) The application for a retail liquor store occupational license shall be on a form provided by the City Clerk and shall be accompanied by a fee of Six Hundred Dollars (\$600). Upon receipt of the fee and application in correct form, accompanied by a copy of a valid Kansas retailer's license for the applicant and premises listed in the application, the City Clerk shall issue a retail liquor store occupational license to the applicant for a two (2) year term commencing on the date the Kansas Liquor Retailer's license is issued by the Director. The receipt shall be displayed in a conspicuous place on the licensed premises.
- (c) Occupational licenses and license fees for retail liquor stores are nontransferable.
- (d) One-half of the occupational license fee may be refunded to the applicant if the retail liquor store occupational license is surrendered within one (1) year after the date the Kansas Liquor Retailer's license was issued by the Director. Otherwise, license fees shall be nonrefundable.

(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)
 (Ord. 2568C; 09-04-12)
 (Ord. 2662C; 05-19-14)
 (Ord. 2720C; 02-16-15)

3-212. ADDITIONAL REGULATIONS.

- (a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:
 - (1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;
 - (2) Sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;
 - (3) Sell, offer to sell or serve an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;
 - (4) 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
 - (5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under Subsections (a)(1) through (4).
- (b) A club, drinking establishment, caterer or holder of a temporary permit may:
 - (1) Offer free food or entertainment at any time;
 - (2) Sell or deliver wine by the bottle or carafe;
 - (3) Sell, offer to sell and serve individual drinks at different prices throughout any day;
 - (4) Sell or serve beer or cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces;
 - (5) Offer samples of alcoholic liquor free of charge as authorized by the Club and Drinking Establishment Act; or

- (6) Sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages as approved by the Director in a pitcher containing not more than 64 fluid ounces.
- (c) Except as provided in subsection (b), no club, drinking establishment, caterer or holder of a temporary permit may serve alcoholic beverages in pitchers or carafes.
- (d) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an officer, employee or agent thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor or cereal malt beverage by a minor on premises where alcoholic beverages are sold by such licensee or permit holder, except that a licensee's or permit holder's employee who is not less than 18 years of age may serve alcoholic liquor or cereal malt beverage under the supervision of the on-premises licensee or permit holder or employee who is 21 years of age or older.
- (e) The issuance of a license to a club, drinking establishment, or caterer, or temporary permit shall conclusively be deemed to be the consent of the licensee or permit holder to the immediate entry to and inspection of any premises licensed as a club, or drinking establishment or any premises where alcoholic liquor is sold by a holder of a temporary permit, by any law enforcement officer or agent of the Director. Such right of immediate entry and inspection shall be at any time when the premises are occupied and is not limited to hours when the club or drinking establishment is open for business. Such consent shall not be revocable during the term of the license or temporary permit. In addition to the penalties in Subsection (f), refusal of such entry shall be grounds for the revocation of the license or temporary permit.
- (f) Violation of any provision of this Section except Subsection (d) is punishable by a fine of not less than Five Hundred Dollars (\$500.00), or imprisonment not exceeding six (6) months , or both. Violation of Subsection (d) is punishable by a fine of not less than \$100 and not more than \$250 or imprisonment not exceeding 30 days or both.

(Ord. 899C; 02-03-86)

(Code 2000)

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

(Ord. 2720C; 02-16-15)

3-213. LICENSE FEE FOR DRINKING ESTABLISHMENTS AND CLUBS.

- (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 Five Hundred Dollars (\$500) 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 be for a term of two (2) years commencing on the date the Kansas Liquor Retailer's license is issued by the Director. The City license shall be displayed in a conspicuous place on the licensed premises.

- (c) Drinking establishment and club licenses and license fees are nontransferable.
- (d) One-half of the drinking establishment or club license fee may be refunded to the applicant if the drinking establishment or club license is surrendered within one (1) year after the date the Kansas Liquor Retailer's license was issued by the Director. Otherwise, license fees shall be nonrefundable.

(Ord. 1028C; 01-04-88)
 (Code 2000)
 (Ord. 1914C; 09-04-01)
 (Ord. 1992C; 05-19-03)
 (Ord. 2568C; 09-04-12)
 (Ord. 2720C; 02-16-15)

3-214. HOURS OF OPERATION FOR DRINKING ESTABLISHMENTS AND CLUBS.

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 unless otherwise allowed by state law.

(Ord. 996C; 08-17-87)
 (Code 2000)
 (Ord. 1992C; 05-19-03)
 (Ord. 2720C; 02-16-15)

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 a license fee in the amount of Two Hundred Dollars (\$200) on each caterer doing business in the City who has a caterer's license issued by the Director , 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 term of the caterer's license shall be for two years commencing on the date the license was issued by the Director.
- (4) Caterer's licenses and license fees are nontransferable.
- (5) One-half of the caterer's license fee may be refunded to the applicant if the license is surrendered within one year after the date the Kansas Liquor Retailer's license was issued by the . Otherwise, license fees shall be nonrefundable.
- (6) 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.** Caterers licensed hereunder shall not 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 at an event catered by such caterer.

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

(Code 2000)

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

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

(Ord. 2568C; 09-04-12)

(Ord. 2662C; 05-19-14)

(Ord. 2720C; 02-16-15)

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 liquor permit from the City Clerk.
- (b) An application for a local temporary liquor permit shall be submitted to the City Clerk at least 14 days prior to the event.
- (c) The City Clerk shall provide a form for the application for the local temporary liquor permit and each application shall clearly require:
- (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.
- (d) Upon presentation of a State Temporary Permit, a written application and necessary accompanying documents meeting the requirements of this section, payment of the fee set forth herein, and, if additional City services are required, approval of the City Administrator, the City Clerk shall issue the local temporary liquor permit.
- (e) **Permit Fee.**
- (1) There is hereby levied a temporary liquor permit fee in the amount of Fifty Dollars (\$50.00) per day on each group or individual holding a temporary permit issued by the Director authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.
 - (2) Every temporary liquor 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 selling and serving or mixing alcoholic liquor for consumption on the premises.
- (f) The City Clerk shall notify the Chief of Police whenever a temporary liquor permit has been issued and forward a copy of the permit and application to the Chief of Police.
- (g) No temporary liquor permit holder shall allow the selling, serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. at any event for which a temporary permit has been issued.

- (h) A temporary liquor 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)

(Ord. 2662C; 05-19-14)

(Ord. 2720C; 02-16-15)

3-216a. COMMON CONSUMPTION AREAS.

- (a) The definitions in Section 3-201 shall apply to Section 3-216a.
- (b) Notwithstanding any other provisions prohibiting public consumption under this Chapter, the City may establish by ordinance, a Common Consumption Area within the City limits. The ordinance shall designate the boundaries of any Common Consumption Area and prescribe the times at which alcoholic liquor may be possessed and consumed. The ordinance shall require all public streets or roadways lying within a Common Consumption Area to be closed to vehicular traffic during the times when the possession and consumption of alcoholic liquor is permitted. Only a Kansas resident or organization with its principal place of business in Kansas may apply for the establishment of a Common Consumption Area, and, if approved, the applicant may pursue a Common Consumption Area permit from the Kansas Division of Alcoholic Beverage Control.
- (c) Applications for establishment of a Common Consumption Area shall be submitted to the City Clerk:
 - (1) Each application must include a description of proposed boundaries of the Common Consumption Area and the proposed times during which alcoholic liquor may be possessed and consumed and be signed by the Owner of the property;
 - (2) Each application will be subject to a non-refundable Application Fee of \$100;
 - (3) Each application shall be accompanied by an acknowledgement that each Common Consumption Area permit holder shall be liable for violations that occur off the premises of licensee's premises, but within the Common Consumption Area identified in the ordinance and that no permit holder shall permit any person to remove any open container of alcoholic liquor from the Common Consumption Area.
- (d) Upon approval by the Governing Body, the City Clerk shall notify the Director of the establishment of a Common Consumption Area and submit a copy of the ordinance with such notice.
- (e) Common Consumption Areas designated by such ordinance shall expire after five years.

(Ord. 2878C; 02-19-18)

3-217.

REVOCAION OF ALCOHOLIC BEVERAGE LICENSES. The Governing Body of the City, upon five (5) days notice to any person licensed under this Article, may revoke or suspend such license for any of the following reasons:

Basis for Revocation:

- (a) If the licensee has fraudulently obtained the license by giving false information in the application for the license;
- (b) If the licensee has violated any of the provisions of the Kansas Club and Drinking Establishment Act, Liquor Control Act or this Article or has violated the provisions of this Chapter; or has become ineligible to obtain a license under this Article or state law;
- (c) The drunkenness of the licensee, manager, or employee while on duty, or for permitting any disorderly person to remain on the premises where such licensee is serving alcoholic liquor;
- (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 21 years in connection with the mixing or dispensing of alcoholic liquors except as allowed by state law;
- (g) For the employment or continuation in employment of persons adjudged guilty of a felony or of a violation of any law which would make them ineligible to be licensed under state law;
- (h) Maintaining or permitting a public nuisance to exist in or upon the licensee's place of business.

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

(Code 2000)

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

(Ord. 2720C; 02-16-15)

(Ord. 2934C; 03-18-19)