

Chapter 600

ALCOHOLIC BEVERAGES

ARTICLE I

General Provisions

Section 600.010. Definitions. [R.O. 2008 §600.010; Ord. No. 2473 §1(3-401), 8-9-1988; Ord. No. 3132, 1-14-2019¹]

The following words, when used in this Chapter, shall have the meanings set out herein:

ALCOHOLIC LIQUOR — 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.

CATERER — 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.

CEREAL MALT BEVERAGE OR ENHANCED CEREAL MALT BEVERAGE — Cereal malt beverage as that term is defined in K.S.A. § 41-2701, and amendments thereto, and such term shall include beer containing not more than six percent (6%) alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

CLASS A CLUB — 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 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.

CLASS B CLUB — 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.

CLUB — A Class A or Class B club.

DRINKING ESTABLISHMENT — Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

Section 600.020. Restriction On Location. [R.O. 2008 §600.020; Ord. No. 2473 §1(3-402), 8-9-1988; Ord. No. 3011 §1, 5-11-2010]

1. Editor's Note: This ordinance provided an effective date of 4-1-2020.

- A. No alcoholic liquor or cereal malt beverage shall be sold or served by a person holding a license or permit from the City whose licensed premises is located within two hundred (200) feet of any church or school said distance to be measured from the nearest property line of such church or school to the nearest portion of the building on the licensed premises.
- B. The distance location of Subsection (A) above shall not apply to a club, drinking establishment, cereal malt beverage licensee or caterer 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 or cereal malt beverage if the building or use does not meet the zoning ordinance requirements of the City or conflicts with other City laws, including building codes, fire codes and health codes.

Section 600.025. Extension of Premises (Beer Gardens, Etc.). [Ord. No. 3013 §1, 5-11-2010]

- A. No licensee, nor any owner, employee or agent thereof, shall allow the serving or consumption of alcoholic liquor on extended premises that has not been approved by the Director of Alcoholic Beverage Control (the Director) for the State of Kansas. The licensee shall maintain, on the licensed premises, a copy of the Director's written approval to extend the licensed premises. Such copy shall be available for inspection upon request by any Law Enforcement Officer or any officer or agent of the Director.
- B. Hours of operation for an extended premises shall not be later than 10:00 P.M. on Sunday through Thursday or later than Midnight on Friday and Saturday.
- C. Amplified music is not allowed at an outdoor extended premises.

Section 600.030. Suspension of License. [R.O. 2008 §600.030; Ord. No. 2477 §1(3-209), 8-9-1988]

The Chief of Police, upon five (5) days' written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this Chapter or other laws pertaining to cereal malt beverages, which violation does not in his/her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the Governing Body within seven (7) days from the date of such order.

Section 600.040. License Suspension/Revocation By Governing Body. [R.O. 2008 §600.040; Ord. No. 2477 §1(3-210), 8-9-1988; K.S.A. 41-2611(d),(e)]

- A. The Governing Body, upon five (5) days' written notice to a person holding a license to sell cereal malt beverages, may permanently revoke or cause to be suspended such license for a period of not more than thirty (30) days for any of the following reasons:
 - 1. If a licensee has fraudulently obtained the license by giving false information in the application therefor;
 - 2. If the licensee has violated any of the provisions of this Article or has become

- ineligible to obtain a license under this Article;
3. The licensee's manager or employee has been intoxicated while on duty;
 4. The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee;
 5. The sale of cereal malt beverages to any person under the legal age for consumption;
 6. For permitting any gambling in or upon any premises licensed under this Article;
 7. For permitting any person to mix drinks with materials purchased in any premises licensed under this Article or brought into the premises for this purpose;
 8. For the employment of any person under the age established by the State of Kansas for employment involving, dispensing, or selling of cereal malt beverages;
 9. For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
 10. For the sale of possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premises licensed under this Article;
 11. The nonpayment of any license fees;
 12. The provisions of Subsections (6) and (9) shall not apply if such place of business is also currently licensed as a private club or drinking establishment.

Section 600.050. License Suspension or Revocation – Appeal. [K.S.A. 41-321]

- A. Whenever the Director refuses an application for any license or suspends or revokes any license, the Director shall prepare an order so providing which shall be signed by the Director or a person designated by the Director, and the seal of the Director shall be affixed thereto. The order shall state the reason or reasons for the refusal, suspension or revocation. The order shall be served in accordance with the provisions of K.S.A. 77-531 and amendments thereto.
- B. Any applicant or licensee aggrieved by any order of the Director may appeal from such order to the Secretary by filing a notice of appeal with the Secretary. Such notice of appeal must either be mailed to the Secretary by certified mail or filed with the Secretary within fifteen (15) days after service of the order appealed from or, if such appeal is taken because the Director has failed to enter the order on an application for a license, within fifteen (15) days after the date an application for a license is considered to have been refused as provided in K.S.A. 41-319 and amendments thereto. The notice of appeal shall be on a form which shall be prescribed and furnished by the Secretary. Whenever any such notice of appeal is filed, the Secretary shall notify, in writing, the Director of such appeal. The Secretary at least ten (10) days before the time fixed for the hearing shall notify the Director and the applicant or licensee of the time when, and place where, the appeal will be heard. The hearing shall be conducted by the Secretary, or by a person designated by the Secretary, in accordance with the provisions of the Kansas Administrative Procedure Act and shall be held within thirty (30) days after the date of the filing of the notice of appeal

unless the person appealing consents to a later hearing.

- C. The Secretary shall adopt, pursuant to K.S.A. 41-210 and amendments thereto, such rules and regulations as necessary to govern the procedure in such hearings. At any such hearing the applicant or licensee and the Director may be present in person or by agent or counsel. The Secretary or person conducting the hearing shall have the power to adjourn any hearing, but no such adjournment shall be for more than five (5) days unless consented to by the person appealing.

ARTICLE II Alcoholic Beverages

Section 600.060. License Required. [R.O. 2008 §600.060; Ord. No. 2471 §1, 8-9-1988]

It shall be unlawful for any person, firm or corporation 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 having first procured a license so to do as required by this Act.

Section 600.065. License Fee. [Ord. No. 3031 §1, 3-22-2011]

- A. There is hereby levied a biennial license fee in the amount of five hundred dollars (\$500.00) on each retail liquor store located in the City which has a retailers license issued by the State Director of Alcoholic Beverage Control.
- B. Said biennial license fee shall be paid in two (2) installments of two hundred fifty dollars (\$250.00) each. The first (1st) installment shall be due before business is begun under an original or renewal of a State license and the second (2nd) installment shall be due one (1) year from the date of issuance of the State license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.
- C. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a State license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the State license, if there are no conflicts with any zoning, fire safety, or alcoholic beverage ordinances of the City.
- D. The license period shall extend for the period covered by the State license. No license fee shall be refunded for any reason.
- E. Every licensee shall cause the City license to be placed in plain view next to or below the State license in a conspicuous place on the licensed premises.

Section 600.070. Provisions of Retailer. [R.O. 2008 §600.070; CC 1968 §3-102; Ord. No. 2624 §1, 10-11-1994; Charter Ord. No. 17 §1, 2-22-2005; Ord. No. 2872 §1, 4-12-2005]

- A. The rules and regulations governing the retailer shall be as follows. It shall be unlawful for a retailer of alcoholic liquor:
 - 1. To permit any person to mix drinks in or on the licensed premises;

2. To employ any person under the age of twenty-one (21) years in connection with the operation of such retail establishment;
3. To employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony;
4. To furnish any entertainment in his/her premises or to permit any pinball machine or any game of skill or chance to be located in or on such premises.

Section 600.080. Retail Sale – Original Packages. [R.O. 2008 §600.080; CC 1968 §3-103]

It shall be unlawful for any person to have in his/her possession for sale at retail any bottles, casks or other containers containing alcoholic liquor except in original packages labeled by the manufacture of alcoholic liquor.

Section 600.085. Sunday Sales of Alcoholic Liquor and Cereal Malt Beverage. [R.O. 2008 §600.085; Chtr. Ord. 17 §1, 2-22-05; Ord. No. 2864 §1, 2-22-2005; Ord. No. 2895 §§1 – 2, 9-13-2005]

- A. Pursuant to 2005 K.S.L., Ch. 201, 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. Pursuant to 2005 K.S.L., Ch. 201, 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.

Section 600.090. Purchase or Consumption of Alcoholic Beverages By A Person Eighteen or More Years of Age. [R.O. 2008 §600.095; Ord. No. 2717 §§1 – 3, 1-26-1999; K.S.A. 41-727(a)]

- A. Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such Statutes, no person under twenty-one (21) years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.
- B. Violation of this Section by a person eighteen (18) or more years of age but less than twenty-one (21) years of age is a Class C misdemeanor for which the minimum fine is two hundred dollars (\$200.00) and the maximum is five hundred dollars (\$500.00). In addition thereto, the Court may order the offender to do either or both of the following:
 1. Perform not less than forty (40) hours of public service; or
 2. Attend and satisfactorily complete a suitable educational training program dealing with the effects of alcohol or other chemical substances when ingested by humans.
- C. This Section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised and such cereal malt beverage is furnished by the person's parent or legal guardian.

Section 600.100. Possession of Alcoholic Liquor in Open Containers Is Unlawful and Consumption of Alcoholic Liquor in Public Places Forbidden. [R.O. 2008 §600.100; Ord. No. 2321 §1, 2-8-1983]

It shall be unlawful for any person to have in his/her possession alcoholic liquor, except in the original package or container which has not been opened, or to drink or consume alcoholic liquor upon the public streets, alleys, roads or highways, or in 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, or inside a vehicle while upon the public streets, alleys, roads or highways. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor.

Section 600.110. Transportation of Liquor in Open Containers Unlawful – Exception. [K.S.A. 8-1599(b)]

- A. No person shall transport in any vehicle upon a highway or street any alcoholic beverage unless such beverage is:
1. In the original unopened package or container, the seal of which has not been broken and from which the original cap, 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 if a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; 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 and amendments thereto, or a bus, as defined by K.S.A. 8-1406 and amendments thereto, 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.

**ARTICLE III
Private Clubs**

Section 600.120. License Required. [R.O. 2008 §600.130; Ord. No. 2472 §1(3-301), 8-9-1988]

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

Section 600.130. License Fee. [R.O. 2008 §600.140; Ord. No. 2472 §1(3-302), 8-9-1988; Ord. No. 3031 §2, 3-22-2011]

- A. There is hereby levied a biennial license fee on each private club located in the City which has a private club license issued by the State Director of Alcoholic Beverage Control. The City license fee for a Class A club shall be five hundred dollars (\$500.00) and the City license fee for a Class B club shall be five hundred dollars (\$500.00), provided however, any non-profit social, fraternal or war veterans' club shall be exempt from said license fee.
- B. Said biennial license fee shall be paid in two (2) installments of two hundred fifty dollars (\$250.00) each. The first (1st) installment shall be due before business is begun under an

original or renewal of a State license and the second (2nd) installment shall be due one (1) year from the date of issuance of the State license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.

- C. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a State license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the State license, if there are no conflicts with any zoning, fire safety, or alcoholic beverage ordinances of the City.
- D. The license period shall extend for the period covered by the State license. No license fee shall be refunded for any reason.
- E. Every licensee shall cause the City license to be placed in plain view next to or below the State license in a conspicuous place on the licensed premises.

Section 600.140. Business Regulations. [R.O. 2008 §600.150; Ord. No. 2472 §1(3-303), 8-9-1988]

- A. No club licensed hereunder 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.
- B. Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- C. No club membership shall be sold to any person under twenty-one (21) years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under twenty-one (21) years of age.

ARTICLE IV
Cereal Malt Beverages

Section 600.150. License Required of Retailers. [R.O. 2008 §600.160; Ord. No. 2477 §1(3-201), 8-9-1988]

- A. It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- B. It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.

Section 600.160. Application. [R.O. 2008 §600.170; Ord. No. 2477 §1(3-202), 8-9-1988]

- A. Any person desiring a license shall make an application to the Governing Body of the City and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
 - 1. The name and residence of the applicant and how long he/she has resided within the

State of Kansas:

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;
 4. The name and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
 5. A statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age and that he/she has not within two years immediately preceding the date of making application 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 or of the United States;
 6. Each application for a general retailer's license shall be accompanied by a certificate from the Building Inspector certifying that he/she has inspected the premises to be licensed and that the same comply with the Building Codes and/or ordinances of the City.
 7. Each application for a general retailer's license must be accompanied by a certificate from the City Fire Chief certifying that he/she has inspected the premises to be licensed and that the same comply with the Fire Code and/or ordinances of the City.
- B. The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the City with any information pertinent to the application. One (1) copy of such application shall immediately be transmitted to the Chief of Police for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such applicant to determine whether he/she is qualified as a licensee under the provisions of this Article. The Chief shall report to the City Clerk not later than five (5) working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the Governing Body at the earliest meeting consistent with current notification requirements.

Section 600.170. License Application Procedures. [R.O. 2008 §600.180; Ord. No. 2477 §1(3-203), 8-9-1988]

- A. All applications for a new or renewed cereal malt beverage license shall be submitted to the City Clerk at least ten (10) days in advance of the Governing Body meeting at which they will be considered.
- B. The City Clerk shall notify the holder of an existing license thirty (30) days in advance of its expiration.
- C. The City Clerk shall provide copies of all applications to the Police Department, to the Fire Department, and to the Health Department, when they are received. The Police Department shall run a records check on all applicants and the Fire Department and Health Department will inspect the premises in accordance with City Fire Codes and/or ordinances. The Departments will then recommend approval, or disapproval, of applications within five (5) working days of the Department's receipt of the application.

- D. The Governing Body will not consider any application for a new or renewed license that has not been submitted ten (10) days in advance and been reviewed by the above City Departments.
- E. An applicant who does not hold a cereal malt beverage license in the City shall attend the Governing Body meeting when the application for a new license will be considered.

Section 600.180. License Granted – Denied. [R.O. 2008 §600.190; Ord. No. 2477 §1(3-204), 8-9-1988]

- A. The journal of the Governing Body meeting shall show the action taken on the application.
- B. If the license is granted, the City Clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- C. No license shall be transferred to another licensee.
- D. If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

Section 600.190. License To Be Posted. [R.O. 2008 §600.200; Ord. No. 2477 §1(3-205), 8-9-1988]

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

Section 600.200. License, Disqualification. [R.O. 2008 §600.210; Ord. No. 2477 §1(3-206), 8-9-1988; K.S.A. 41-2703(b)(1,7,11)]

- A. No license shall be issued to:
 - 1. A person who is not a resident of the County in which the place of business covered by the license is located, has not been a resident of such County for at least six (6) months or has not been a resident in good faith of the State of Kansas.
 - 2. A person who is not a citizen of the United States.
 - 3. A person who is not of good character and reputation in the community in which he/she resides.
 - 4. A person who, within two (2) years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, 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 or of the United States.
 - 5. A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
 - 6. A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five percent (25%) 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 any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five percent (25%) of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent (25%) of the stock, of a corporation which:
 - a. Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or
 - b. has been convicted of a violation of the Drinking Establishment Act or the cereal malt beverage laws of this State.
8. A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
9. A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this Section and such felony or other crime was committed during the time that the spouse held a license under this act.

Section 600.210. License Fee. [R.O. 2008 §600.220; Ord. No. 2477 §1(3-208), 8-9-1988]

A. The license fee shall be as follows:

1. *General retailer.* For each place of business selling cereal malt beverages at retail for consumption on the premises: \$100.00 per calendar year.
2. *Limited retailer.* For each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises: \$50.00 per calendar year.

B. The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

Section 600.220. Change of Location. [R.O. 2008 §600.230; Ord. No. 2477 §1(3-212), 8-9-1988]

If a licensee desires to change the location of his/her place of business, he/she shall make an application to the Governing Body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee equal to the original amount paid at the existing location. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

Section 600.230. Wholesalers and/or Distributors. [R.O. 2008 §600.240; Ord. No. 2477 §1(3-213), 8-9-1988]

It shall be unlawful for any wholesaler and/or distributor, his/her or its agents or employees, to sell and/or deliver cereal malt beverages within the City, to persons authorized under this Section to sell the same within this City unless such wholesaler and/or distributor has first secured a license from the State of Kansas authorizing such sales.

Section 600.240. Business Regulations. [R.O. 2008 §600.250; Ord. No. 2477 §1(3-214), 8-9-1988; Ord. No. 2621 §1, 9-13-1994; Ord. No. 3132, 1-14-2019²]

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

1. The place of business licensed and operating shall at all times have a front and rear exit unlocked when open for business.
2. The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the Police and Health Officers of the City, county and State.
3. Except as provided by Subsection (A)(4), no enhanced cereal malt beverages may be sold or dispensed:
 - a. Between the hours of 12:00 Midnight and 6:00 A.M.;
 - b. In the original package before 12:00 Noon or after 8:00 P.M. on Sunday;
 - c. On Easter Sunday; or
 - d. For consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell enhanced cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises.
4. Enhanced cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. § 41-2601 et seq., and amendments thereto, and licensed as a club by the State Director of Alcoholic Beverage Control.
5. The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.
6. It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.
7. No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.
8. No licensee or agent or employee of the licensee shall sell or permit the sale of enhanced cereal malt beverages to any person under twenty-one (21) years of age.
9. No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
10. No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.

2. Editor's Note: This ordinance provided an effective date of 4-1-2020.

11. No licensee or agent or employee of the licensee shall employ any person under eighteen (18) years of age in dispensing enhanced cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

Section 600.250. Sanitary Conditions Required. [R.O. 2008 §600.260; Ord. No. 2477 §1(3-215), 8-9-1988]

All parts of the licensed premises including furnishing and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one (1) restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one (1) lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the City Manager or designee.

Section 600.260. Minors On Premises. [R.O. 2008 §600.270; Ord. No. 2477 §1(3-216), 8-9-1988]

- A. It shall be unlawful for any person under twenty-one (21) years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.
- B. This Section shall not apply if the person under twenty-one (21) years of age is an employee of the licensed establishment, or is accompanied by his/her parent or guardian, or if the licensed establishment derives not more than fifty percent (50%) of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

Section 600.270. Cereal Malt Beverages – Upon Demand, Tested – License Posted. [R.O. 2008 §600.280; Ord. No. 2477 §1(3-217), 8-9-1988]

This Article shall not be construed to authorize the sale of any intoxicating beverages and any person, firm, partnership or corporation engaged in selling or dispensing cereal malt beverages shall upon demand of the City, its agents and officers, furnish the City, its agents and officers, samples of any cereal malt beverages in their possession for the purpose of permitting the same to be tested for alcoholic contents thereof, and all license permits shall be posted conspicuously in such place of business.

Section 600.280. Maintain Orderly Place of Business. [R.O. 2008 §600.290; Ord. No. 2477 §1(3-218), 8-9-1988; Ord. No. 3132, 1-14-2019³]

Any person, firm, partnership or corporation engaged in the sale of cereal malt beverages, and maintaining a regular place of business in which said cereal malt beverages are so sold or dispensed, shall at all times keep and maintain an orderly place of business and shall further not permit intoxicated persons within said places or sell or dispense any such beverage to any

3. Editor's Note: This ordinance provided an effective date of 4-1-2020.

intoxicated person and shall further not permit any nuisances, loud or boisterous talking or other disorderly conduct on the part of the business in such a manner as to disturb the peace and quiet of other persons.

Section 600.290. (Reserved) ⁴

Section 600.300. Possession and Consumption in Public. [R.O. 2008 §600.320; Ord. No. 2477 §1(3-221), 8-9-1988]

It shall be unlawful for any person to have in his/her possession within the park square or upon the public streets, sidewalks, alleys, parkways, parking lot, entrance way to business establishments and stairways of buildings facing the public square, or other such similar public place open to use by the public or where the public may congregate, whether owned publicly or privately, whether or not an admission or other fee is charged or collected, or where said cereal malt beverage is given to any person along and in connection with a fee, donation, or charge that is made or collected for some other supply, activity or service rendered, or upon roads or highways within the City of Paola, any cereal malt beverages except in the original package or container which shall not have been opened, and no person shall drink or consume cereal malt beverages within the park square or upon the public streets, sidewalks, alleys, parkways, parking lots, entrance ways to business establishments and stairways or buildings facing the public square, or other such similar public place open to use by the public or where the public may congregate, whether owned publicly or privately, upon roads or highways within the City of Paola.

Section 600.310. Transportation of Cereal Malt Beverages in Open Containers. [K.S.A. 8-1599(b)]

- A. No person shall transport in any vehicle upon a highway or street any alcoholic beverage unless such beverage is:
1. In the original unopened package or container, the seal of which has not been broken and from which the original cap, 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 if a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; 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 and amendments thereto, or a bus, as defined by K.S.A. 8-1406 and amendments thereto, 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.

Section 600.320. Giving Away Cereal Malt Beverage. [K.S.A. 41-2705(a)]

⁴. Editor's Note: Former Section 600.290, Dancing Regulations, adopted and/or amended by R.O. 2008 § 600.310; Ord. No. 2477 § 1(3-220), 8-9-1988, was repealed by Ord. No. 3132, 1-14-2019, effective 4-1-2019.

- A. Except to the extent permitted pursuant to K.S.A. 41-703 and amendments thereto, no retailer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from:
 - 1. Any manufacturer or distributor;
 - 2. Any person connected with, in any way representing or a member of the family of a manufacturer or distributor;
 - 3. Any stockholders in a manufacturer or distributor; or
 - 4. Any officer, manager, agent or representative of a manufacturer or distributor.

ARTICLE V
Drinking Establishments

Section 600.330. License Required. [R.O. 2008 §600.350; Ord. No. 2474 §1, 8-9-1988]

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

Section 600.340. License Fee. [R.O. 2008 §600.360; Ord. No. 2474 §1, 8-9-1988; Ord. No. 3031 §3, 3-22-2011]

- A. There is hereby levied a biennial license fee in the amount of five hundred dollars (\$500.00) on each drinking establishment located in the City which has a drinking establishment license issued by the State Director of Alcoholic Beverage Control.
- B. Said biennial license fee shall be paid in two (2) installments of two hundred fifty dollars (\$250.00) each. The first (1st) installment shall be due before business is begun under an original or renewal of a State license and the second (2nd) installment shall be due one (1) year from the date of issuance of the State license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.
- C. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a State license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the State license, if there are no conflicts with any zoning, fire safety, or alcoholic beverage ordinances of the City.
- D. The license period shall extend for the period covered by the State license. No license fee shall be refunded for any reason.
- E. Every licensee shall cause the City license to be placed in plain view next to or below the State license in a conspicuous place on the licensed premises.

Section 600.345. Business Regulations. [Ord. No. 3132, 1-14-2019⁵; Ord. No. 3139, 5-14-2019]

- A. No drinking establishment 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.
- B. No alcoholic liquor or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

ARTICLE VI
Caterer Service

Section 600.350. License Required. [R.O. 2008 §600.370; Ord. No. 2475 §1, 8-9-1988]

It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the City without first obtaining a local caterer's license from the City Clerk.

Section 600.360. License Fee. [R.O. 2008 §600.380; Ord. No. 2475 §1, 8-9-1988; Ord. No. 3031 §4, 3-22-2011]

- A. There is hereby levied a biennial license fee in the amount of five hundred dollars (\$500.00) on each caterer doing business in the City who has a caterer's license issued by the State Director of Alcoholic Beverage Control.
- B. Said biennial license fee shall be paid in two (2) installments of two hundred fifty dollars (\$250.00) each. The first (1st) installment shall be due before business is begun under an original or renewal of a State license and the second (2nd) installment shall be due one (1) year from the date of issuance of the State license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.
- C. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a State license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the State license, if there are no conflicts with any zoning, fire safety, or alcoholic beverage ordinances of the City.
- D. The license period shall extend for the period covered by the State license. No license fee shall be refunded for any reason.
- E. Every licensee shall cause the City license to be placed in plain view next to or below the State license in a conspicuous place on the licensed premises.

Section 600.370. Business Regulations. [R.O. 2008 §600.390; Ord. No. 2475 §1, 8-9-1988; Ord. No. 3132, 1-14-2019⁶]

5. Editor's Note: This ordinance provided an effective date of 4-1-2020.

6. Editor's Note: This ordinance provided an effective date of 4-1-2020.

- A. 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 at an event catered by such caterer.
- B. No alcoholic liquor or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

ARTICLE VII
Permits

Section 600.380. Community Center Temporary Permit. [R.O. 2008 §600.430; Ord. No. 2950 §§1 – 3, 8-28-2007; Ord. No. 3012 §1, 5-11-2010]

- A. The consumption of cereal malt beverages and alcoholic beverages on public property may be permitted at the Paola Community Center if:
 - 1. A written application is received by the Paola Community Center Director at least thirty (30) days prior to the date of the requested permit and said permit is granted by the Paola City Manager or designee ten (10) days prior to the date requested for said permit; and
 - 2. The applicant must provide the Paola City Manager or designee all information necessary to insure that all cereal malt beverage and alcoholic beverage laws will be observed during the permitted period; and
 - 3. The Paola City Manager or designee may establish any special conditions he/she determines are appropriate for the event; and
 - 4. The applicant will provide for one (1) off-duty City of Paola Police Officer as security personnel for the event; and
 - 5. The Paola City Manager's decision to approve or deny the temporary permit is discretionary and the applicant has no legal right to receive said permit as a matter of law; and
 - 6. A deposit of two hundred fifty dollars (\$250.00) is required in addition to the rental fee for the Paola Community Center, some or all of the deposit may be returned to the renter subject to the approval of the Community Center Director; and
 - 7. Any sale of cereal malt beverages or alcoholic beverages is prohibited; and
 - 8. The event remains consistent with prevailing community standards.
- B. When granted a temporary permit, the applicant shall notify the Paola Chief of Police and provide the Chief a copy of the permit.
- C. This permit shall be limited to private events held at the Paola Community Center.
- D. Sections 600.100 and 600.300 prohibiting possession and consumption of alcoholic beverages and cereal malt beverages in public shall be and are hereby amended by the terms and provisions of a temporary permit issued as provided for herein.
- E. Section 600.395 requiring a City temporary permit shall be and is hereby amended by the

terms and provisions of a temporary permit issued as provided for herein to allow the sales and serving of alcoholic beverages at public events held at the Paola Community Center.

Section 600.390. Roots Festival Temporary Permit. [Ord. No. 2913 §§1 – 3, 5-23-2006; Ord. No. 3012 §1, 5-11-2010]

- A. The consumption of cereal malt beverages and alcoholic beverages on public property may be permitted during the Roots Festival if:
 - 1. A written application is received by the City Clerk thirty (30) days prior to the date of the requested permit and said permit is granted by the Paola City Manager or designee fifteen (15) days prior to the date requested for said permit; and
 - 2. The applicant must provide the Paola City Manager or designee all information necessary to insure that all cereal malt beverage and alcoholic beverage laws will be observed during the permitted period; and
 - 3. The Paola City Manager or designee may establish any special conditions he/she determines are appropriate for the Roots Festival; and
 - 4. Cereal malt beverages and alcoholic beverages may only be consumed in paper or plastic containers and no glass containers or bottles of any kind shall be allowed, unless special circumstances dictate otherwise and are approved in advance by the Paola City Manager or designee; and
 - 5. The Paola City Manager's decision to approve or deny the temporary permit is discretionary and the applicant has no legal right to receive said permit as a matter of law; and
 - 6. The event remains consistent with prevailing community standards.
- B. When granted a temporary permit, the applicant shall notify the Paola Chief of Police and provide the Chief a copy of the permit.
- C. This permit shall be limited to the Roots Festival and shall only apply to the public property where the Roots Festival is located within the City of Paola as approved by the Paola City Manager or designee.
- D. Sections 600.100 and 600.300 prohibiting possession and consumption of alcoholic beverages and cereal malt beverages in public shall be and are hereby amended by the terms and provisions of a temporary permit issued as provided for herein.
- E. Section 600.395 requiring a City temporary permit shall be and is hereby amended by the terms and provisions of a temporary permit issued as provided for herein to allow the sales and serving of alcoholic beverages at the Roots Festival.

Section 600.395. City Temporary Permits For The Sales and Serving of Alcoholic Beverages. [Ord. No. 3014 §1, 5-11-2010]

- A. *Permit Required.*
 - 1. 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 City temporary permit from the City Clerk.

2. It shall be unlawful for any person to sell or serve any alcoholic liquor on any public property or in any public building in the City without first obtaining a City temporary permit from the City Clerk.

B. *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 City temporary permit at least thirty (30) days before the event. Written application for the City 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.

Upon presentation of a State temporary permit, payment of the City's temporary permit fee and a written application, the City Manager may approve and the City Clerk may issue a City temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the City.

A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which will be specified in the State permit. Not more than four (4) temporary permits may be issued to any one (1) applicant in a calendar year. A temporary permit shall not be transferable or assignable

The City Clerk shall notify the Police Chief whenever a temporary permit has been issued and forward a copy of the permit and application to the Police Chief.

C. *Permit Fee.* There is hereby levied a City temporary permit fee, which fee shall be paid at the time that the City temporary permit application is filed with the City Clerk. Such City temporary permit fee shall be twenty-five dollars (\$25.00) per day.

D. *Permit Regulations.*

1. Every temporary permit holder shall cause the temporary permit 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 on the premises.
2. No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of Midnight and 9:00 A.M. at any event for which a temporary permit has been issued.
3. No alcoholic beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

E. Sections 600.100 and 600.300 prohibiting possession and consumption of alcoholic beverages and cereal malt beverages in public shall be and are hereby amended by the

terms and provisions of a temporary permit issued as provided for herein.

Section 600.397. Special Event Cereal Malt Beverage Permits. [Ord. No. 3036 §1, 8-23-2011]

- A. *Permit Required.* It shall be unlawful for any person to sell or serve any cereal malt beverages at any special event within the City without first obtaining a local special event permit from the City Clerk.
- B. *Permit Fee.*
 - 1. There is hereby levied a special event permit fee in the amount of twenty-five dollars (\$25.00) per day (four (4) days maximum) on each group or individual, which fee shall be paid before the event begins. Such fee shall be in addition to the twenty-five dollar (\$25.00) cereal malt beverage stamp fee to be remitted to the Division of Alcohol Beverage Control.
 - 2. Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the City where the holder of the special event permit is serving cereal malt beverages for consumption on the premises.
- C. *City Special Event Permit.*
 - 1. It shall be unlawful for any person to serve cereal malt beverages at a special event without first applying for a local special event permit at least thirty (30) days before the event. Written application for the local special event permit shall be made to the City Clerk on the form used for annual cereal malt beverage sales as directed by the City Clerk. In addition to any other information required, the applicant shall provide the following:
 - a. The name of the applicant;
 - b. The group for which the event is planned;
 - c. The location of the event;
 - d. The date and time of the event;
 - e. Any anticipated need for police, fire or other municipal services.
 - 2. Upon meeting the requirements to obtain a special event permit, the City Clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the City.
 - 3. The City Clerk shall notify the Chief of Police whenever a special event permit has been issued and forward a copy of the permit and application to the Chief of Police.
- D. *Permit Regulations.*
 - 1. No special event permit holder shall allow the serving of cereal malt beverages between the hours of 12:00 A.M. and 6:00 A.M. at any event for which a special event permit has been issued.
 - 2. No cereal malt beverages shall be given, sold or traded to any person under

- twenty-one (21) years of age.
3. No more than four (4) special event permits may be issued in a calendar year to the same applicant.
 4. No special event permit issued hereunder may be transferred or assigned to any other vendor.
 5. All local ordinances and State Statutes for the sale and consumption of cereal malt beverages apply to holders of special event permits.

ARTICLE VIII
Penalty

Section 600.400. Penalty. [R.O. 2008 §600.420; Ord. No. 2477 §1(3-225), 8-9-1988]

Any person, firm, partnership or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment not more than one (1) year, or by both such fine and imprisonment and upon conviction said license issued hereunder shall immediately be revoked.