



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, JULY 27, 2021 7:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting

Meetings are televised everyday on Channel 2 at 7 p.m. and midnight and available for viewing on YouTube and Facebook Live

CALL TO ORDER – Pledge of Allegiance Followed by Silent Meditation

PRESENTATIONS AND PROCLAMATIONS:

1. Mayor's Award
2. Proclamations (pg. 2)
 - a. National Farmers Market Week August 1-7, 2021
 - b. Buffalo Soldiers 155th Anniversary

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

3. Minutes from July 13, 2021 Regular Meeting **Action:** Motion (pg. 4)

Second Consideration Ordinances:

4. Second Consideration Ordinance 8169 - Vacate a Portion of Sanders Street **Action:** Roll Call Vote (pg. 8)

NEW BUSINESS:

Public Comment: *(i.e. Items not listed on the agenda or receipt of petitions- Public comment is limited to 2-3 minutes and no action will be taken by the Commission on public comment items - Please state your name and address) A signup sheet will be provided in the commission chambers for anyone wished to speak. Fill out the sheet with requested information when you enter the meeting.*

Public Hearing:

5. Public Hearing for Unsafe or Dangerous Structure – 1006 Kickapoo Fire Damaged House (pg. 12)
 - a. Open Public Hearing **Action:** Motion
 - b. Comments from Staff and Public **Action:** Motion
 - c. Close Public Hearing **Action:** Motion
 - d. Consider Resolution B-2286 **Action:** Motion

Resolutions:

6. Resolution B-2287 Set Public Hearing for Unsafe or Dangerous Structures **Action:** Motion (pg. 17)

First Consideration Ordinances:

7. First Consideration Ordinance Illegal Camping **Action:** Consensus (pg. 22)
8. First Consideration Ordinance Amending Chapter 6 Alcoholic Beverage & Cereal Malt Beverage **Action:** Consensus (pg. 27)

Consent Agenda:

Claims for July 10, 2021, through July 23, 2021, in the amount of \$441,006.96; Net amount for Payroll #14 effective July 16, 2021 in the amount of \$380,902.36 (Includes Police & Fire Pension in the amount of \$8,856.38). **Action:** Motion

Other:

Adjournment **Action:** Motion

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *the Leavenworth Farmers Market, offers consumers farm-fresh, affordable, convenient, and healthy products such as fruits, vegetables, cheeses, herbs, flowers, baked goods, meat; and*
- WHEREAS,** *farmers markets serve as integral links among urban, suburban, and rural communities, affording farmers and consumers the opportunity to interact; and*
- WHEREAS,** *the popularity of farmers markets continues to rise as more and more consumers discover the joys of shopping for unique ingredients sold directly from the farm in their freshest possible state; and*
- WHEREAS,** *farmers markets play a key role in developing local and regional food systems that support the sustainability of family farms, revitalize communities, and provide opportunities for farmers and consumers to interact; and*
- WHEREAS,** *Leavenworth Farmers Market offers electronic benefits transfer technology for use by Supplemental Nutrition Assistance Program recipients in redeeming their benefits, offers opportunities for senior citizens participating in the Senior Farmers Market Nutrition Program to redeem their checks, and provides unsold produce to community free food programs; and*
- WHEREAS,** *The United States Department of Agriculture strongly supports and promotes the development, operation, and expansion of farmers markets and other direct-to-consumer marketing activities for agricultural producers providing them with marketing opportunities.*

NOW, THEREFORE, *I, Nancy D. Bauder, Mayor of the City of Leavenworth, Kansas, hereby recognize farmers markets and the contributions farmers make to daily life in America and give notice to our citizens that August 1-7, 2021 be proclaimed:*

Leavenworth Farmers Market Week

in the City of Leavenworth, and encourage citizens and visitors to celebrate the benefits of farmers markets and the bountiful production of our Nation's farmers with appropriate observances and activities.

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this twenty-seventh of July in the year of two-thousand and twenty-one.*

Nancy D. Bauder, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *on July 28, 1866, the legendary Buffalo Soldiers arose from a Thirty-Ninth Congress act entitled "An Act to Increase and Fix the Military Peace Establishment of the United States" aka, the Army Reorganization Act of 1866, establishing the first United States African American military enlistment during peacetime in this nation's history; and*
- WHEREAS,** *under the Army reorganization of 1866 the act created the 9th and 10th Cavalry Regiments and the 38th, 39th, 40th and 41st Infantry Regiments. Representing twenty percent of the Cavalry and over ten percent of the Infantry forces in the federal Army; and*
- WHEREAS,** *Fort Leavenworth, Kansas, is the original home of the 10th Cavalry beginning in September 1866 and today the home of the National Buffalo Soldier Monument and Circle of Firsts; and*
- WHEREAS,** *Leavenworth, Kansas was home to many of the Buffalo Soldiers and their families, eventually raising homes, churches and businesses in growing communities of military and civilian life. The City of Leavenworth, Kansas, has long recognized the legendary Buffalo Soldiers' contribution and the historic importance of the monument; and*
- WHEREAS,** *the Alexander/Madison Chapter of Greater Kansas City Buffalo Soldiers 9th and 10th (Horse) Cavalry Association, originally the Greater Kansas City/Leavenworth Area Buffalo Soldiers, is the oldest Buffalo Soldier chapter in the world. Founded July 28, 1966 by veteran Buffalo Soldiers from Kansas City and Leavenworth.*

NOW, THEREFORE, I, Nancy D. Bauder, Mayor of the City of Leavenworth, Kansas hereby proclaim July 28, 2021 as:

ALEXANDER/MADISON CHAPTER BUFFALO SOLDIERS 155TH ANNIVERSARY DAY

IN WITNESS WHEREOF, I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this twenty-seventh day of July in the year of two-thousand and twenty-one.

Nancy D. Bauder, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk



CITY OF LEAVENWORTH
100 N. 5th Street
Leavenworth, Kansas 66048

City Commission Regular Meeting
Commission Chambers
Tuesday, July 13, 2021 7:00 p.m.

CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Nancy D. Bauder, Mayor Pro-Tem Camalla Leonhard, Commissioners Myron J. (Mike) Griswold and Mark Preisinger. Not Present: Commissioner Jermaine Wilson

Staff members present in the commission chambers: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Parks Superintendent Brian Bailey, Public Works Director Brian Faust, WPC Superintendent Tim Guardado, WPC Assistant Superintendent Jon Lemke, Finance Director Ruby Maline, City Attorney David E. Waters, Deputy City Clerk Cary L. Collins and City Clerk Carla K. Williamson.

Mayor Bauder asked everyone to stand for the pledge of allegiance followed by silent meditation.

PROCLAMATIONS AND PRESENTATIONS:

Proclamation:

Parks and Recreation Month – Parks Superintendent Brian Bailey was present to accept the proclamation.

Adopt-A-Park Presentations:

Parks Superintendent Brian Bailey presented and introduced the following parks adoptions:

Families of North Esplanade Park – North Esplanade Park

Princess Scarlett and Family – David Brewer Park

Leavenworth County Community Corrections – Bob Dougherty Park

New Employee Welcome:

Mayor Bauder read the names of the newly hired city employees

Willard Halstead, WPC Operator I

Jordyn Lanter, Records Clerk

Lee Williams, WPC Operator I

Brian Faust, Public Works Director

Pamela Nirk, Brush Site Operator

Derek Burleson, Operations Superintendent

Eric McIntyre, Firefighter

Alan Baur, Firefighter

Roberta Beier, Deputy Finance Director

Michael Garrison II, Police Officer

Jennifer Chadwick, Kennel Attendant

Courtney Hobbs, Police Officer

LeAnna Fannon, Accountant

Taimak Cobb, Solid Waste Laborer

Patrick Clark, Pool Manager

Jacob Low, IT Specialist I
Antonio Richardson, Police Officer
Brayden Thuney, Police Officer

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Griswold moved to approve the minutes from the June 22, 2021 regular meeting. Commissioner Preisinger seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

NEW BUSINESS:

Public Comment: *(emails received by the public for public comment on non-agenda items will be read at this time limited to 2-3 minutes)* -- No emails were received or in person comments.

Public Hearing:

Public Hearing to Consider Petition to Vacate a Part of Sanders Street

Open Public Hearing:

Commissioner Preisinger moved to open a public hearing. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Comments from Staff and Public:

Staff Comments:

Public Works Director Brian Faust reviewed the petition submitted by Mark Clark requesting the vacation of a portion of Sanders Street.

- Mr. Clark would like to construct a detached garage north of his home but it would encroach on the Right-of-Way
- Sanders Street is not currently constructed in this location and construction of the street would be challenging based on the topography and would require significant structure/bridge to the east of the property
- Notification sent to all utility companies with no objections
- Utility easement will be retained and future easement to be used by utilities if needed
- Mr. Faust supports the request to vacate as petitioned

Public Comments:

Mr. Clark was present but had no comments

Close Public Hearing:

Commissioner Preisinger moved to close the public hearing. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

There was a consensus to place the ordinance on first consideration

General Items:

Consider Cereal Malt Beverage Licenses Requests – City Clerk Carla Williamson presented for consideration and approval three Cereal Malt Beverage (CMB) license requests.

- Off premise consumption license, Sam’s Food Mart, located at 1031 Metropolitan Ave, formerly known as Diamond Oil #2. (new ownership)
- Off premise consumption license, Shop Smart #2, 700 Eisenhower Rd, formerly known as Wood’s Foodmart. (new ownership)
- On premise consumption license, Nuway, located at 510 Shawnee Street

Commissioner Leonhard moved to approve the 2021 off premise Cereal Malt Beverage Licenses for Sam’s Food Mart at 1031 Metropolitan Avenue and Shop Smart #2 at 700 Eisenhower Road and the 2021 on premise Cereal Malt Beverage License for Nuway at 510 Shawnee Street. Commissioner Preisinger seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Mayor’s Appointment:

Mayor Bauder moved to appoint to the City Planning Commission Donald Homan to an unexpired term ending May 1, 2024. Commissioner Preisinger seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Resolution:

Resolution B-2285 Resolution of Intent to Issue Industrial Revenue Bonds – Assistant City Manager Taylour Tedder presented for consideration Resolution B-2285 a resolution of intent to issue Industrial Revenue Bonds (IRB) for 21st Century Management. The resolution is sufficient documentation for 21st Century Management, LLC to begin using the sales tax exemption of the city for their development project located at 5001 S. 13th Street in the Gary Carlson Business Park for their new business headquarters, MAPS, Inc. The developer is requesting the issuance of IRB’s in the maximum principal amount of \$1,500,000.00 The City will not be liable or otherwise responsible for the payment of any costs or expenses incurred with the issuance of the bonds. Should the Commission approve the non-binding resolution of intent, the City would ask bond counsel to begin preparing IRB documents that will come back to the Commission for approval.

Commissioner Preisinger moved to adopt Resolution B-2285 to approve the non-binding resolution of intent to issue Industrial Revenue Bonds for MAPS Inc. as presented. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Bids, Contracts and Agreements:

Consider Addendum No. 1 to Lions Club Trash Bag Delivery Agreement 2007-05 – City Clerk Carla Williamson presented for approval a house keeping items to amend the 2007-05 agreement with the Lions Club to reflect the current delivery price per bag. Sometime between 2007 and 2018 the price was increased to \$0.45. During the 2018 budget process, the Lions Club requested an increase to \$0.55 cents per roll. The request was approved by the Commission in the budget however, a formal addendum to the original contract was not prepared. At this time, an addendum to the contract is before the Commission for formal approval.

Commissioner Griswold moved to approve Addendum No. 1 to Contract 2007-05, Lions Club trash bag agreement. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Consider Purchase of Pickup Truck for Water Pollution Control (WPC) through Sourcewell – Public Works Director Brian Faust presented for consideration the purchase of a 2022 Ford Super Duty F-250 Truck in the amount of \$45,199.62. The city obtained the bid through Sourcewell, a cooperative purchasing group authorized by the city purchasing policy.

Commissioner Griswold moved to approve the purchase of the 2022 Ford Super Duty F-250 4WD truck with snow plow from National Auto Fleet Group at a cost of \$45,199.62. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Consent Agenda:

Commissioner Leonhard moved to approve claims for June 19, 2021, through July 9, 2021, in the amount of \$1,240,044.15; Net amount for Payroll #13 effective July 2, 2021 in the amount of \$356,963.45 (No Police & Fire Pension). Commissioner Griswold seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 4-0.

Other:

Commissioner Preisinger:

- Remind everyone advanced/early voting starts tomorrow at the County Clerk's office

Commissioner Griswold:

- Reported that the Library Director has announced reinstatement of the requirements for masks in the public library; requirement will begin tomorrow July 14

Commissioner Leonhard:

- Condolences to Commissioner Wilson and his family on the passing of his brother

Adjournment:

Commissioner Griswold moved to adjourn the meeting. Commissioner Preisinger seconded the motion and the motion was unanimously approved and the meeting was adjourned.

Time Meeting Adjourned 7:31 p.m.

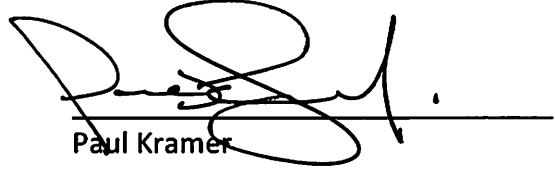
Minutes taken by City Clerk Carla K. Williamson, CMC

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8169
VACATING A PORTION OF SANDERS STREET**

JULY 27, 2021



Carla K. Williamson, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the July 13, 2021 City Commission regular meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE VACATING A PORTION OF SANDERS STREET IN CENTRAL SUBDIVISION IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, AND RETAINING UTILITY EASEMENTS, AND AMENDING APPENDIX C, ARTICLE I, STREET VACATIONS OF THE CITY OF LEAVENWORTH CODE OF ORDINANCES.

There have been no changes to the ordinance since first introduced. Ordinance No. 8169 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8169

(Summary Published in the Leavenworth Times on July 30, 2021)

ORDINANCE NO. 8169

AN ORDINANCE VACATING A PORTION OF SANDERS STREET IN CENTRAL SUBDIVISION IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, AND RETAINING UTILITY EASEMENTS, AND AMENDING APPENDIX C, ARTICLE I, STREET VACATIONS OF THE CITY OF LEAVENWORTH CODE OF ORDINANCES.

WHEREAS, a petition for the vacation of a part of Sanders Street in Central Subdivision, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas and fully described in Section 1, was filed with the Office of the City Clerk on March 19, 2021; and

WHEREAS, the City, working with the petitioner from March 19, 2021 to June 1, 2021, came to a mutual agreement regarding easement to be retained and resumed the vacation process; and

WHEREAS, the City Clerk of the City of Leavenworth, Kansas gave public notice of the same by publication in the official City newspaper on June 4, 2021 stating that a petition has been filed in the office of the City Clerk praying for such vacation, describing the property fully and setting July 13, 2021 as the hearing date on which the petition shall be presented to the Governing Body of the City for hearing and that at such time and place and giving instructions to all persons interested to be heard under the petition; and

WHEREAS, the petition did proceed to hearing as published and no objections were filed with the City Clerk or received at the time of the hearing; and

WHEREAS, all utility companies were notified and agreed to such vacation and the utility easement described in Exhibit A; and

WHEREAS, all the requirements of K.S.A. 12-504 *et. seq.* have been complied with.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. The part of the street to be vacated and retained easements are described as follows.

Road Vacation:

All that part of the West 230 feet of Sanders Street, lying South of and adjacent to Block 37 and North of and adjacent to Block 36, CENTRAL SUBDIVISION, City of Leavenworth, Leavenworth County, Kansas.

Retained Easement:

The North 15.00 feet of all that part of the West 230 feet of Sanders Street, lying South of and adjacent to Block 37 and North of and adjacent to Block 36, CENTRAL SUBDIVISION, City of Leavenworth, Leavenworth County, Kansas.

Section 2. Those certain streets, road, alleys, or rights-of-ways, as previously platted or otherwise, and being more fully described and depicted in Exhibit A, (less retained easements) are hereby vacated.

Section 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after the date of its publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this 27th day of July 2021.

{Seal}

Nancy D. Bauder, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

Exhibit A to Ordinance 8169

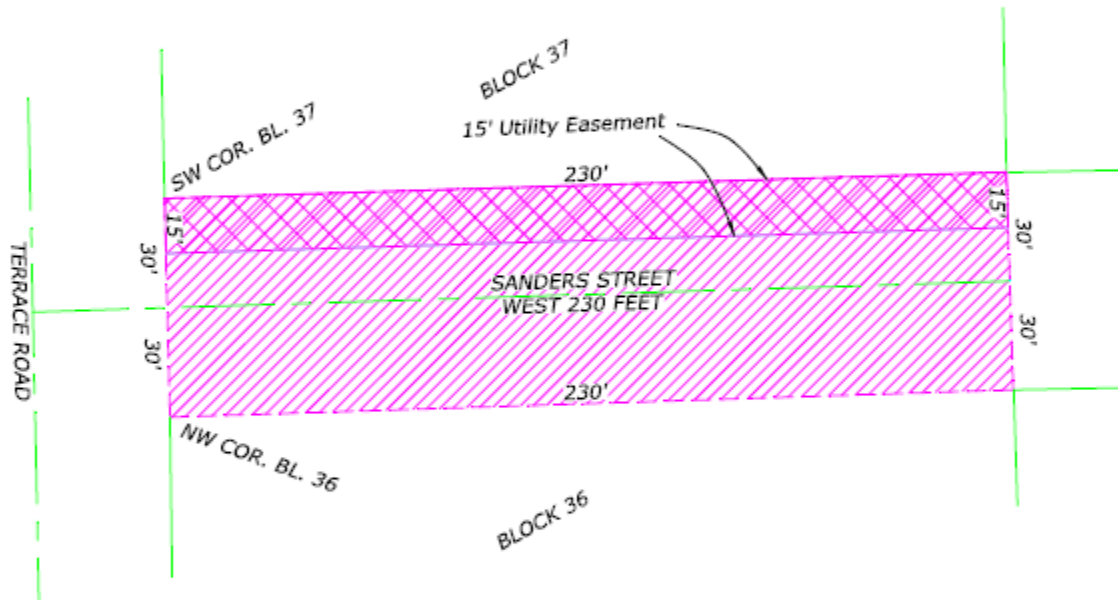
ROAD VACATION EXHIBIT

PREPARED FOR:
CITY OF LEAVENWORTH

ROAD VACATION:
All that part of the West 230 feet of Sanders Street, lying South of and adjacent to Block 37 and North of and adjacent to Block 36, CENTRAL SUBDIVISION, City of Leavenworth, Leavenworth County, Kansas.

EASEMENT DESCRIPTION:
The North 15.00 feet of all that part of the West 230 feet of Sanders Street, lying South of and adjacent to Block 37 and North of and adjacent to Block 36, CENTRAL SUBDIVISION, City of Leavenworth, Leavenworth County, Kansas.

NOTE:
The purpose of this exhibit is only for the representation of the proposed area to be vacated, as shown hereon in the hatched area. This does not constitute a boundary survey.



Job # K-21-Clark
March 17, 2021 Rev. 6/11/21



Graphic scale bar showing 0, 40, 80, 180 feet and 1" = 40'.

THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY

POLICY REPORT PWD NO. 21-28

PUBLIC HEARING FOR UNSAFE STRUCTURE
1006 KICKAPOO STREET

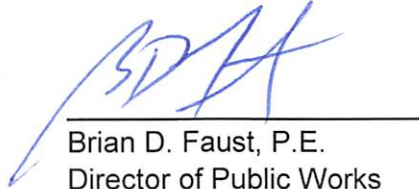
July 27, 2021

Prepared by:



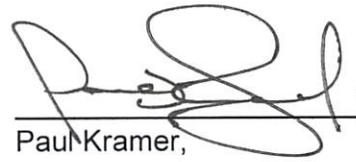
Harold D. Burdette,
Chief Building Inspector

Reviewed by:



Brian D. Faust, P.E.
Director of Public Works

Reviewed by:



Paul Kramer,
City Manager

ISSUE:

Conduct a Public Hearing regarding the unsafe or dangerous structure located at 1006 Kickapoo Street.

BACKGROUND:

On June 8, 2021, the City Commission was presented a resolution regarding setting a date for a public hearing related to the structure located at 1006 Kickapoo Street that was damaged by fire. The Commission approved Resolution No. B-2284, setting July 27, 2021, as the date for a public hearing for the purposes of Chapter 50, Article I, Section 50-5, of the City Code of Ordinances. The structure was damaged by fire on April 3, 2021. The property was sold after the fire and the new property owners are Shawn Holland and Sheaffer Hoefgen. A building permit was issued on June 16, 2021, and work has begun.

When structures are damaged by fire and the damage is severe enough that the settlement from the insurance company exceeds 75% of the face value of the policy covering the structure, the insurance company is required to draft a payment to the City of Leavenworth for 15% of the settlement. This money is to be used to either remove the structure if the owner decides not to repair it, or return it to the property owner once repairs have progressed to a reasonable point, which is when the exterior has been repaired and the interior is ready for wall finishes to be installed.

The City has received proceeds from the insurance company for this property in the amount of \$8,250. The money will be returned to the previous property owners when repairs have been completed to the point that the City typically releases the funds.

NOTIFICATION PROCEDURES:

On June 16, 2021, a copy of said resolution was mailed by certified, restricted delivery mail to the current owners and a copy was mailed by standard postage to the previous owners. The City Clerk published the resolution on the dates stated in the resolution.

RECOMMENDATION:

Staff recommends that the owner is given 90 days to complete the repairs to the point that the

exterior repairs are completed and the interior has been inspected and approved so that the interior finish work can proceed. If the repairs are not completed at that time, then additional time may be given, and the money can be returned at a later date once the repairs have been completed to a point in the repair process that there is no need to consider demolition.

COMMISSION ACTION:

The Commission is asked to approve Resolution No. B-2286 giving the owners 90 days to complete the repairs, or another amount of time decided by the Commission.

ATTACHMENT:

Resolution No. B-2286

Photos of Structure

(To Be Published in the Leavenworth Times on August 3, 2021)

RESOLUTION NO. B-2286

A FINDING THAT A CERTAIN FIRE DAMAGED STRUCTURE LOCATED AT 1006 KICKAPOO STREET AND HEREIN DESCRIBED IS UNSAFE OR DANGEROUS AND DIRECTING THE STRUCTURE TO BE REPAIRED OR REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the City Inspector of the City of Leavenworth, Kansas, did on the 8th day of June, 2021 file with the Governing Body a statement in writing that a fire damaged structure hereinafter described as “A single-family structure located at **1006 Kickapoo Street**. The property is legally described as: Lots 37 and 38 Block 6 EWING, ROELOFSON, CO’S SUBDIVISION, of the City of Leavenworth, Leavenworth County, Kansas is unsafe and dangerous; and

WHEREAS, the Governing Body did adopt Resolution No. B-2284 fixing the time and place of a hearing at which the owner, their agents, any lienholders of record, and occupants of such structures could appear and show cause why such structure should not be condemned and ordered repaired or demolished and providing for giving notice thereof as provided by law; and

WHEREAS, Resolution No. B-2284 was published in the official City newspaper on June 15, 2021 and June 22, 2021, and a copy of said Resolution was mailed and served on the owner, agents and/or lienholder of record of such structure as provided by law; and

WHEREAS, on July 27, 2021 the Governing Body heard all evidence submitted by the environmental officer of the City and heard any evidence submitted by the owner, agents, or lienholders of records.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. That the Governing Body hereby finds that the fire damaged property described above is an unsafe and dangerous structure. The owner of the structure is hereby directed to commence repair or removal of such structure on or before that date listed in Section 2, and if such owner fails to commence such repair or removal within the time stated or fails to diligently prosecute the same until the work is complete, said Governing Body shall cause the structure to be razed and removed and the cost of such razing and removing, less salvage, if any, will be assessed as a special assessment against the lot or parcel of land upon which the structure is located as provided by law.

Section 2. The property is hereby given 90-days for repair or removal at which time the City Commission will review at the next scheduled meeting.

Section 3. Be it further resolved that the City Clerk and/or Chief Building Inspector shall cause this Resolution to be published once in the official City newspaper and a copy mailed to the owner, agents, and/or lienholder of record, and occupants or served personally as provided by law.

PASSED AND ADOPTED by the City Commission of the City of Leavenworth, Kansas
on this 27th day of July 2021.

Nancy D. Bauder, Mayor

{SEAL}

ATTEST:

Carla K. Williamson, CMC City Clerk



POLICY REPORT
RESOLUTION TO SET PUBLIC HEARING
FOR UNSAFE OR DANGEROUS STRUCTURES

JULY 27, 2021



Prepared By:
Julie Hurley,
Director of Planning and
Community Development



Reviewed By:
Paul Kramer,
City Manager

DISCUSSION

Structures that are assessed to be in an unsafe and dangerous physical condition, abandoned, or that have a blighting influence, pose a threat to the public health, safety and welfare of the City. To address and abate these structures, the City Commission, through its powers under Chapter 10, Article XI (Unsafe or Dangerous Structures) of the Code of Ordinances, has requested that City staff annually develop an inventory of unsafe and dangerous structures for review and potential removal through demolition.

STRUCTURES FOR CONSIDERATION

Staff has compiled a list of dangerous structures, which have been evaluated by staff in accordance with State statute. The City Commission reviewed a list of 15 structures at the June 15, 2021 City Commission study session and reached consensus at that time to proceed with placing 13 of the structures as presented on a list for public hearing.

City staff has completed the necessary paperwork to set a resolution for the public hearing. All property owners have been notified that their properties have been identified as unsafe and dangerous, and given opportunity to contact staff to discuss options for resolution.

The following structures, as reviewed by the City Commission on June 15, 2021, are hereby presented for consideration to be placed on a resolution to set a public hearing:

1. 619 Ottawa – Single family house
2. 620 Osage – Single family house and accessory structure
3. 733 Pawnee – Accessory structure
4. 869 Sherman – Single family house and accessory structure
5. 910 Sherman – Single family house
6. 918 Pottawatomie – Single family house
7. 919 Pottawatomie – Single family house and accessory structure
8. 927 Pottawatomie – Accessory structure
9. 706 Garfield – Single family house
10. 767 Charles – Single family house and accessory structure
11. 1921 5th Ave – Single family house

12. 204 N. 17th – Single family house
13. 1050 10th Ave – Multi family structure

The resolution affixes the time and place, of September 14, 2021 in the City Commission Chambers, 100 N 5th Street, Leavenworth, Kansas, at which time the owner, the owner's agent, any lienholder of record, and any occupant of such structure designated by staff as dangerous may appear and show cause why such structure should not be condemned as dangerous or hazardous structures and ordered repaired or demolished. At the conclusion of the hearing, the City Commission shall pass a resolution listing the structures, their findings, and listing any time periods allowed for repair.

At the time of the public hearing on September 14, 2021, staff will present an overview of each listed structure for consideration by the City Commission.

RECOMMENDED ACTION

Approve Resolution B-2287 to set a public hearing date of September 14, 2021 for review of 13 dangerous and unsafe structures.

Resolution B-2287

A RESOLUTION FIXING THE TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS AT WHICH TIME AND PLACE THE OWNER, ITS AGENT, LIEN HOLDERS OF RECORD, AND OCCUPANTS OF THE STRUCTURES HEREIN DESCRIBED MAY APPEAR TO SHOW CAUSE WHY SUCH STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS UNSAFE OR DANGEROUS STRUCTURES, PURSUANT TO K.S.A. 12-1751 ET SEQ.

WHEREAS, the enforcing officer of the City of Leavenworth, Kansas, did on the 15th day of June 2021, file with the governing body of said city a statement in writing that certain structures hereinafter described are dangerous and hazardous and should be ordered by the governing body to be demolished or repaired.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. That a Public Hearing shall be held on the 14th day of September 2021, before the Governing Body of the City of Leavenworth, Kansas, at 7:00 p.m., or as soon thereafter as the City Commission can hear the matter, at the City Commission Room, 100 N 5th Street, Leavenworth, Kansas, at which time the owners, their agents, heirs, any lien holders of record and other persons affected by certain structures herein described may appear and show cause why such structures should or should not be condemned as dangerous or hazardous structures and ordered repaired or demolished:

1. A one-story wood frame house and any accessory structures on the property located at **204 N. 17th Street**, legally described as Lot 3, Amron Acres, a subdivision to the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0782704017008000.
2. A one-story wood frame house and any accessory structures on the property located at **619 Ottawa Street**, legally described as Lots 12 and 13 in Block 79, Leavenworth City Proper, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 077260410800700.
3. A one-story wood frame house and any accessory structures on the property located at **620 Osage Street**, legally described as Lots 23 and 24, Block 80, Leavenworth City Proper, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772604109008000.
4. A one-story wood frame house and any accessory structures on the property located at **706 Garfield Street**, legally described as Lots C and D in Stout's Replat of Lots 1, 2, 3, 4 and 5 in Block 7 of Fenn's Broadway Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 1010201022011000.
5. A detached garage/shed located at **733 Pawnee Street**, legally described as Lot 30, Block 102, Day & Macaulay's Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772601409007000.

6. A one-story wood frame house and any accessory structures on the property located at **767 Charles Street**, legally described as a tract in the Northeast Quarter of Southeast Quarter of Section 35, Township 8, Range 22, City of Leavenworth, Leavenworth County, Kansas, described as: Beginning at the Northeast corner of Lot 6, Block 8, Benz's Subdivision, thence East 50 feet; thence South 124 feet; thence West 50 feet to the East line of said subdivision, thence North 124 feet to the beginning. CAMA No. 0773504017002000.
7. A two-story brick frame house and any accessory structures on the property located at **869 Sherman Avenue**, legally described as the West 19 feet of Lot 13 and all of Lots 14 and 15, Block 12, Central Subdivision, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0773501017003000.
8. A one-and-a-half story wood frame house and any accessory structures on the property located at **910 Sherman Avenue**, legally described as Lots 16 and 17, Block 16, Central Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0773501015006000.
9. A one-story wood frame house and any accessory structures on the property located at **918 Pottawatomie Street**, legally described as Lot 34, Block 24, Cochran and Mulligan's Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772604210013000.
10. A one-story wood frame house and any accessory structures on the property located at **919 Pottawatomie Street**, legally described as Lots 13 and 14, Block 21, Cochran and Mulligan's Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772604303006000.
11. A detached shed located at **927 Pottawatomie Street**, legally described as Lots 6 and 7, Block 21, Cochran and Mulligan's Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772603401002000.
12. A two-story wood frame apartment building and any accessory structures on the property located at **1050 10th Avenue**, legally described as the North 50 feet of Lots 1, 2 and 3, Block 9, Stilling's Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0773503011001000.
13. A one-and-a-half story wood frame house and any accessory structures on the property located at **1921 5th Avenue**, legally described as Lots 10 and 11, Block 19, in Rees, Doniphan and Thornton Subdivision, a subdivision in the City of Leavenworth, Leavenworth County, Kansas, together with that portion of vacated alley accruing therto. CAMA No. 1010102023011000.

Section 2. The City Clerk and/or Director of Planning and Community Development are hereby authorized and directed to provide for the notice of the public hearing by taking the following action:

- a. A copy of this resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant at the last known address and shall be marked "deliver to addressee only."

- b. This resolution shall be published for two consecutive weeks; once on August 3, 2021 and once on August 10, 2021.

Section 3. This Resolution shall be effective upon its adoption by the City Commission of the City of Leavenworth, Kansas.

PASSED AND ADOPTED by the City Commission of the City of Leavenworth, Kansas this 27th day of July 2021.

Nancy D. Bauder, Mayor

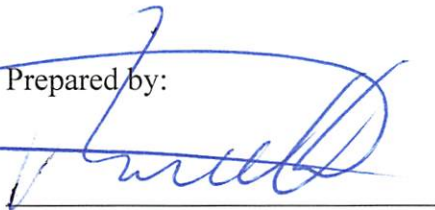
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ATTEST:

Carla K. Williamson CMC, City Clerk

Policy Report No. 8-2021
2021 Illegal Camping
July 27, 2021

Prepared by:



Patrick R. Kitchens, Police Chief

Approved by:



Paul Kramer, City Manager

ISSUE:

Place an Ordinance on First Consideration that Amends Chapter 30, Offenses, Article 1, by adding Section 30-8, *Illegal Camping* and repealing Section 32-37, *Camping*.

STAFF RECOMMENDATION:

Staff recommends approval.

BACKGROUND:

On July 6, 2021, the Police Department was before the Governing Body to review and discuss the proposed ordinance that specifically prohibits camping in City Parks and other public property. (Ordinance attached). After discussion, staff was directed to move forward on the ordinance.

BUDGET IMPACT:

There is some budget impact. The Police Department has used the Refuse Department to assist with cleanup. The Parks and Recreation staff does spend extra time and resources at the Parks to cleanup. There are expenses associated with cleanup of large encampments if we hire a contractor.

COMMISSION ACTION:

Place an ordinance on first consideration that would Amend Chapter 30, Offenses, Article 1 by adding 30-8, *Illegal Camping* and to repeal Section 32-37, *Camping*.

(Summary Published in the Leavenworth Times on _____, 2021)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 30, OFFENSES, ARTICLE I BY ADDING SECTION 30-8, ILLEGAL CAMPING, OF THE CODE OF THE CITY OF LEAVENWORTH, KANSAS. PROVIDING SUBSTITUTE PROVISIONS AND REPEALING SECTION 32-37.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH KANSAS:

Section 1. That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 30, Offenses, Article I is hereby amended and added to read as follows:

Sec. 30-8. Illegal camping.

(a) Definitions:

Camping shall mean the use of land to conduct one or more “specified activities” (defined below) when, based upon such use, it reasonably appears, considering all the circumstances, that the participants, in conducting the specified activities, are using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may be engaging. Camping shall not include residing in a permanent structure that may be lawfully occupied as a permanent or temporary residence.

City shall mean the City of Leavenworth, Kansas.

Specified activities shall include one or more of the following:

- Sleeping or preparing to sleep, such as laying down bedding;
- Storing personal belongings including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar materials;
- Making any fire for the purpose of warmth, or cooking (excluding cooking on a designated city grill as part of a city approved shelter reservation);
- Erecting a tent, lean-to, or other similar temporary structure.

(b) It shall be illegal to engage in camping on private property without the consent of the property owner.

(c) It shall be illegal to engage in camping within 10 feet of any doorway, loading dock, stairway, or fire escape.

(d) It shall be illegal to engage in camping on any public right-of-way or public property located within the city.

(e) *Exclusions*

(1) Approved visitors to the city riverfront park campground, who follow the rules and regulations of the riverfront park campground, shall be excluded from enforcement of this section.

(2) Camping on any public property for a special event that has been approved by the city manager or his/her designee, shall be excluded from the enforcement of this section.

(f) *Penalty.* Upon a conviction of a violation of this section, the violator shall be fined in an amount not to exceed \$500 or sentenced to a jail term not to exceed 30 days, or both.

Section 2. Chapter 32, Parks and Recreation, Article II, Section 32-37 Camping of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3. This ordinance shall take effect and be in force, from and after its passage, approval, and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body on the ____day of _____, 2021.

Nancy D. Bauder, Mayor

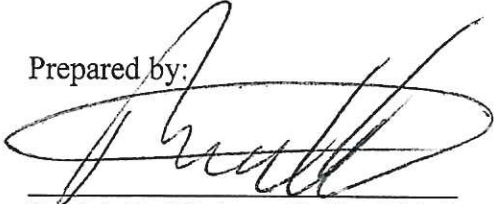
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ATTEST:

Carla K. Williamson, CMC, City Clerk

**Policy Report No. 7-2021
2021 Illegal Camping Ordinance
July 6, 2021**

Prepared by:



Patrick R. Kitchens, Police Chief

Approved by:

Paul Kramer, City Manager

ISSUE:

Review and discuss a proposed new City Ordinance.

STAFF RECOMMENDATION:

Staff recommends approval.

BACKGROUND:

Over the course of the last several months, the Police Department has seen an uptick of people establishing homeless encampments on public property and in the right of way. The most recent examples include an encampment under the bridge at Broadway and Cherokee, under the bridge just north of 4th and Sante Fe, and an encampment established at Daugherty Park at one of the Park Shelters.

Officers often find a mix of small personal property, tents, sleeping bags, coolers, cardboard boxes, and trash. Occasionally, we find more serious problems, such as drug-paraphernalia, needles, alcohol containers and stolen property.

Officers are equipped with a number of tools to deal with these situations such as Disorderly Conduct, Criminal Trespass, Littering, Established Park Hours, Consumption of Alcohol in the Park, and Drug Violations.

The Police Department believes there is a gap in the Ordinances that makes it more difficult to take action in these circumstances and believe this ordinance would help close that gap.

It is not illegal to be homeless and it is not illegal to be in public place. There is no solid legal guidance available if a person goes to the park or goes to the bridge and puts up a tent during the day. Section 32-37 Camping – prohibits overnight camping in the park. The proposed ordinance is designed to give Officers a better tool to help remedy this

particular problem. It is not going to change our overall strategy of education and enforcement.

BUDGET IMPACT:

There is some budget impact. The Police Department has used the Refuse Department to assist with cleanup. The Parks and Recreation staff does spend extra time and resources at the Parks to cleanup. There are expenses associated with cleanup of large encampments if we hire a contractor.


COMMISSION ACTION:

Review and discuss a proposed new ordinance on Illegal Camping. If consensus were reached to move forward, it would be to Amend Chapter 30, Offenses, Article 1 by adding 30-8, Illegal Camping and to Repeal Section 32-37.


**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
REGARDING ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES**

JULY 27, 2021

Prepared by:


Carla K. Williamson, CMC
City Clerk

Reviewed by:


Paul Kramer
City Manager

ISSUE:

The 2021 Legislature passed House Bill 2137 amending the liquor control act, club and drinking establishment act, cereal malt beverage act and the liquor enforcement act. Changes were effective July 1, 2021. The issue before the City Commission is to consider amendments and establishment of new sections to chapter 6 of the City Code of Ordinances, Alcoholic Beverages and Cereal Malt Beverages due to State changes and additional updates needed.

REVIEW OF CHANGES:

Section 6-1 – amendments pertaining to requirement of Kansas agricultural products % of alcohol content; farm wineries, microbreweries, and microdistilleries; updated definitions of retailer and person.

Sections 6-3, 6-5 and 6-220– amended to allow for provisions of K.S.A. 41-2653 “to-go” beverages.

Section 6-7 – amendments to revocations and penalties.

Sections 6-34 and 6-37 – amendment to remove Kansas residency requirement to obtain a CMB license as previously required by Kansas statute. Finger prints may be required for out-of-state applicants and an out of state applicant must appoint a process agent who is a qualified Kansas resident.

Section 6-36 – amended to update the K.S.A referenced.

Section 6-44 – amended to follow state statute of 50% of gross receipts from sale of food.

Section 6-45 - amended to read:

- (a) Except as provided by subsection (b) of this section, no enhanced cereal malt beverages may be sold or dispensed:
- (1) Except as to Sundays, between the hours of 12:00 midnight and 6:00 a.m.;
 - (2) On Easter Sunday;
 - (3) In the original package before 9:00 a.m. or after 8:00 p.m. on all other Sundays; or
 - (4) 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 percent of its gross receipts from the sale of food for consumption on the licensed premises.
- (b) Notwithstanding the foregoing, enhanced cereal malt beverages may be sold on premises which are licensed pursuant to both the Kansas cereal malt beverage act (K.S.A. 41-2701 et seq.) and the Kansas club and drinking establishment act (K.S.A. 41-2601 et seq.) at any time alcoholic liquor is allowed by law to be served on such premises.

Section 6-98 – amended to read:

- (a) No person shall sell at retail, alcoholic liquor in the original package:

- (1) On Easter Sunday, Thanksgiving Day or Christmas Day;
 - (2) On all other Sundays, before 9:00 a.m. or after 8:00 p.m.; or
 - (3) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale is permitted.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for consumption off the premises at any time when alcoholic liquor is allowed by law to be served on the premises.

NOTE REGARDING SECTIONS 6-45 AND 6-98

Pursuant to K.S.A. 41-2911 (b)(1)(A), any change made to expanded Sunday sales must be done through an updated ordinance. The City may draft an ordinance without an election but it is subject to a 60-day waiting period during which a petition for an election can be filed.

Sections 6-49 and 6-221 – sections added to establish process for license suspension/revocation by City Commission (CMB and Liquor licenses).

Section 6-93 – amended to add microdistilleries.

ACTION REQUIRED:

Consensus to place an ordinance on first consideration as presented.

ATTACHMENTS:

- Comparison copy of chapter 6 changes
- First Consideration draft ordinance

ORDINANCE NO. _____

AN ORDINANCE REGARDING ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES, AMENDING SECTIONS 6-1, 6-2, 6-5, 6-7, 6-34, 6-36, 6-37, 6-44, 6-45, 6-93, 6-98, AND 6-220, AND ESTABLISHING NEW SECTIONS 6-49 AND 6-221, OF CHAPTER 6 OF THE LEAVENWORTH CODE OF ORDINANCES, ENTITLED "ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES".

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. Section 6-1 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Beer, when its meaning is not enlarged, modified or limited by other words, means a beverage containing more than 3.2 percent of alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like having such alcoholic content.

Board means the state alcoholic beverage control board of review.

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.

Cereal malt beverage or *CMB* means any fermented but undistilled liquor brewed or made from malt or from malt or from a mixture of malt or malt substitute, or any flavored malt beverage, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

Class A club means premises which are owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the state, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (referred to in this chapter as members), and their families and guests accompanying them.

Class B club means 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 means a Class A or Class B club.

Director means the state director of alcoholic beverage control.

Distributor means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this chapter, or cereal malt beverage or enhanced cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2701 and amendments thereto.

Domestic beer means beer which contains not more than 15 percent alcohol by weight and which is manufactured in this state.

Domestic fortified wine means wine which contains more than 14 percent, but not more than 20 percent alcohol by volume and which is manufactured in this state.

Domestic table wine means wine which contains not more than 14 percent alcohol by volume and which is manufactured without rectification or fortification in this state.

Drinking establishment has the meaning provided by K.S.A. 41-2601 and amendments thereto.

Enhanced cereal malt beverage means cereal malt beverage, as defined herein, and the term "enhanced cereal malt beverage" also includes beer containing not more than six percent alcohol by volume when such beer is sold by a retailer licensed under the Kansas Cereal Malt Beverage Act and the provisions of this chapter.

Farm winery means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

Food establishment has the meaning provided by K.S.A. 65-656 and amendments thereto.

General retailer means a person who has a license to sell enhanced cereal malt beverages at retail.

Legal age for consumption of enhanced cereal malt beverage means 21 years of age, except that legal age for consumption of cereal malt beverage shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

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

Manufacture means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer, enhanced cereal malt beverage, or cereal malt beverage.

Manufacturer means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package, and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors, beer, enhanced cereal malt beverage, or cereal malt beverage, regardless of its alcoholic content. The term "manufacturer" does not include a farm winery, microdistillery, or a microbrewery.

Microbrewery means a brewery licensed by the director to manufacture, store and sell domestic beer.

Microdistillery means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

Minor means any person under 21 years of age.

Nonbeverage user means any manufacturer of any of the products set forth and described in K.S.A. 41-501 and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for non-beverage purposes.

Original package means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.

Person shall have the meaning set forth in Section 1-2 of this code.

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

Retailer means a person who is licensed under the Kansas liquor control act and sells, at retail, or offers for sale at retail, alcoholic liquors or enhanced cereal malt beverages, but does not include a microbrewery, microdistillery, or farm winery.

Sale means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether as principal, proprietor, agent, servant or employee.

Salesperson means any natural person who:

- (1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage; or
- (2) Is engaged in promoting the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, whether the seller resides within the state and sells to licensed buyers within the state, or whether the seller resides without the state and sells to licensed buyers within the state.

Sell at retail and *sale at retail* mean and refer to sales for use or consumption and not for resale in any form, and sales to clubs, licensed drinking establishments, licensed caterers, or holders of temporary permits. The term "sell at retail and sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer, or a holder of a state temporary permit.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whisky, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substance.

Supplier means a manufacturer of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

Temporary permit means a permit issued in accordance with the laws of the state, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises open to the public.

To sell means and includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

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

Wine means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries, or other agricultural products, including such beverages containing added alcohol or spirits, or containing sugar added for the purpose of correcting natural deficiencies. The term "wine" shall include hard cider and any other product that is commonly known as a subset of wine.

Section 2. Section 6-2 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-2. City-owned properties, generally.

- (a) It shall be unlawful for any person to have any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage in his possession upon any public street, highway, alley, sidewalk, inside vehicles, or any other public property unless such alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage is 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 except as authorized hereinafter.
- (b) Notwithstanding the foregoing, it shall not be a violation of subsection (a) above if the alcoholic liquor or enhanced cereal malt beverage, not in its original unopened package or container, has been removed from licensed premises in accordance with the provisions of K.S.A. 41-2653 regarding "to-go" beverages; provided, that such package or container has been sealed in accordance with such law and has not been opened; and further provided, that nothing in this subsection (b) shall be construed or modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the city, regarding the transportation of alcoholic beverages.
- (c) No person shall drink or consume any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage upon the public streets, alleys, sidewalks, roads or highways of the city or inside vehicles while upon such public streets, alleys, sidewalks, roads or highways, or in city-owned parks or other facilities or properties, unless authorized as provided in this section.
- (d) The above prohibitions shall not apply during events and the designated areas for such events in the city where:
 - (1) A special event CMB permit has been approved in accordance with article II of this chapter; or
 - (2) A temporary permit has been approved in accordance with article III, division 2, of this chapter, and the event has been approved by the city commission in accordance with K.S.A. 41-719.
- (e) Notwithstanding the foregoing, and pursuant to K.S.A. 41-719(e), as amended, the drinking or consumption of alcoholic liquor is permitted on the following city-owned properties and facilities without further approval from the city commission, provided that a temporary permit or a caterer's license has been approved in accordance with article III, division 2, of this chapter:
 - (1) The community center located on North Esplanade north of Cherokee Street.
 - (2) The Leavenworth Landing Park located east and south of above described community center.
 - (3) The Haymarket Square, located at 7th and Cherokee.
 - (4) The Havens Park, located at 22nd and Ottawa.
 - (5) The Riverfront Park, located at the east end of Dakota Street.
 - (6) Ray Miller Park, located at the corner of 4201 South 4th Street.
 - (7) Leavenworth Public Library, located at 417 Spruce Street.
 - (8) Performing Arts Center, 500 Delaware Street.
- (f) Notwithstanding the foregoing, cereal malt beverages are allowed to be possessed and consumed (but not served or sold) at city parks with a permit issued by the director of parks and recreation, subject to the following requirements:
 - (1) The premises must have been rented from the city by the applicant; in advance;

- (2) Applicant must be 21 years of age or older and a city resident. Applicant is required to remain on the site throughout the function.
- (3) Applications must be submitted to the parks and recreation office at least five working days prior to the event.
- (4) The director of parks and recreation will notify the police department prior to the permitted event.
- (5) Permits may only be issued for the following types of activities:
 - a. Company picnics.
 - b. Fraternal organization picnics.
 - c. Service club picnics.
 - d. Family reunions.
 - e. Other group functions, subject to the discretion of the director of parks and recreation.

The sale or service of cereal malt beverages on or from city-owned properties shall otherwise require a full cereal malt beverage license or a special event CMB permit.

- (g) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$200.00 or by imprisonment for not more than six months, or by both such fine and imprisonment.

Section 3. Section 6-5 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-5. Possession and transportation.

Subject to the limitations provided in this section, the possession and transportation of alcoholic liquor and/or enhanced cereal malt beverages for other than personal use shall be unlawful.

- (1) No person shall transport in any vehicle upon a highway or street any alcoholic liquor or enhanced cereal malt beverage unless such liquor or beverage is:
 - a. 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;
 - b. Not in the original unopened package or container, provided that such alcoholic liquor or enhanced cereal malt beverage has been removed from licensed premises in accordance with the provisions of K.S.A. 41-2653 regarding "to-go" beverages; provided, that such package or container has been sealed in accordance with such law and has not been opened; and further provided, that nothing in this subsection (1)b. shall be construed or modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the city, regarding the transportation of alcoholic beverages.
 - c. 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
 - d. 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.

Violation of this subsection is a misdemeanor punishable by a fine of not more than \$200.00 or by imprisonment for not more than six months, or both.

- (2) It shall be unlawful for any person to transport any alcoholic liquor upon which the tax imposed by the state liquor control act has not been paid or on the containers of which each mark and stamp required by the state liquor control act has not been affixed, provided that nothing contained in this subsection shall make unlawful the possession and transportation of wine imported solely for use by any church or religious organization for sacramental purposes and uses. Any person who shall violate any of the provisions of this subsection shall, upon conviction thereof, be fined not exceeding \$500.00, or shall be imprisoned not exceeding six months, or both, in the discretion of the court; and in proper cases, the court may order and direct the confiscation of the liquor involved in such transaction as part of the judgment or conviction.

Section 4. Section 6-7 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-7. Revocation; penalties.

- (a) Unless specific provisions for the suspension or revocation as to a particular license are provided elsewhere in this chapter, the city commission upon five days' notice to the person holding a license or permit under this chapter may revoke such license for any one of the following reasons:
 - (1) If a licensee or permit holder has fraudulently obtained the license by giving false information in the application therefor.
 - (2) If the licensee or permit holder has violated any of the provisions of this chapter or any other rules or regulations of the city relating to alcoholic liquor or enhanced cereal malt beverages, or if the licensee or permit holder has violated any law of the state, for which violation the city is authorized by law to revoke the license.
 - (3) If the licensee or permit holder has become ineligible to obtain a license or permit under this chapter.
 - (4) Drunkenness of a person holding such license or permit, drunkenness of a licensee's or permittee's manager or employee while on duty and while on the premises for which the license or permit is issued, or for a licensee or permittee, his manager or employee permitting any intoxicated person to remain in such place selling alcoholic liquor.
 - (5) The nonpayment of any license or permit fees or occupation tax.Additionally, the police chief or his designee may immediately cancel a temporary permit or a special event CMB permit if the event becomes unruly or if the permit holder has violated any of the provisions of this chapter.
- (b) Unless specific provisions for the suspension or revocation as to a particular license are provided elsewhere in this chapter, the licensee, within 20 days after the order of the city commission revoking any license or permit pursuant to this chapter, may appeal to the district court of the county and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license or permit of any licensee or permittee, nor shall any new license or permit be issued to such person or any person acting for or on his behalf, for a period of six months thereafter.
- (c) In addition to the provisions of subsection (a) of this section, and except where other penalties are provided, if the licensee or permit holder has violated any of the provisions of this chapter, the individual holding the license or permit may be charged in municipal court with a violation of the alcoholic liquor laws of the city and, upon conviction, shall be punished by:

- (1) A fine of not more than \$499.00;
- (2) Imprisonment in jail for not more than 179 days; or
- (3) Both such fine and imprisonment.

Section 5. Section 6-34 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-34. Application.

- (a) Any person desiring a license shall make an application to the city commission 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, and shall contain:
 - (1) The name and residence of the applicant;
 - (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 names 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 21 years of age and that he 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.
- (b) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he has inspected the premises to be licensed and that the same comply with the provisions of chapter 22 of this Code.
- (c) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he has inspected the premises to be licensed and that the same comply with the provisions of chapter 20 of this Code.
- (d) 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 copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he is qualified as a licensee under the provisions of this article. The chief shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the city commission at the earliest meeting consistent with current notification requirements.

Section 6. Section 6-36 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-36. License fees; term.

- (a) The license fees for selling enhanced cereal malt beverages shall be as provided in the city fee schedule. Such fee shall be in addition to such fees as are to be remitted to the division of alcohol beverage control pursuant to K.S.A. 41-2702, as amended. License fees are nonrefundable and non-transferable.

- (b) The full amount of the license fee shall be required regardless of the time of 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 7. Section 6-37 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-37. Examination; approval; disqualification.

If the application made under this article is in proper form and accompanied by the license fee, the city commission shall examine the application, and if the applicant is qualified as provided by law the city commission shall approve the granting of a license to the applicant, provided that no license shall be issued to:

- (1) A person who is not a citizen of the United States.
- (2) A person who is not of good character and reputation in the community in which he resides.
- (3) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has 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.
- (4) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- (5) A corporation or a limited liability company if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than 25 percent of the stock or the ownership interests of such corporation or limited liability company would be ineligible to receive a license hereunder for any reason.
- (7) A corporation or a limited liability company, if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than 25 percent of the stock or the ownership interests of such corporation or limited liability company, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock or the ownership interests of a corporation or limited liability company 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 would be ineligible to receive a retailer's license for any reason other than citizenship or age, except that this subsection shall not apply in determining eligibility for a renewal license.

Section 8. Section 6-44 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-44. Minors on premises; loitering by underage persons.

- (a) No license under this article shall permit a person under the legal age for consumption of enhanced cereal malt beverages in or about a place of business, and no licensee shall permit a person under the legal age for consumption of enhanced cereal malt beverage to possess an enhanced cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell enhanced cereal malt beverage if:
 - (1) The licensee's place of business is licensed only to sell enhanced cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or
 - (2) The licensee's place of business is a licensed food establishment, and not less than 50 percent of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- (b) No person under the legal age for consumption of enhanced cereal malt beverages shall loaf or loiter or consume any enhanced cereal malt beverage in any place of business in the city for which an enhanced cereal malt beverage license for consumption on the premises has been issued.

Section 9. Section 6-45 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-45. Days and hours of operation.

- (a) Except as provided by subsection (b) of this section, no enhanced cereal malt beverages may be sold or dispensed:
 - (1) Except as to Sundays, between the hours of 12:00 midnight and 6:00 a.m.;
 - (2) On Easter Sunday;
 - (3) In the original package before 9:00 a.m. or after 8:00 p.m. on all other Sundays; or
 - (4) 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 percent of its gross receipts from the sale of food for consumption on the licensed premises.
- (b) Notwithstanding the foregoing, enhanced cereal malt beverages may be sold on premises which are licensed pursuant to both the Kansas cereal malt beverage act (K.S.A. 41-2701 et seq.) and the Kansas club and drinking establishment act (K.S.A. 41-2601 et seq.) at any time alcoholic liquor is allowed by law to be served on such premises.

Section 10. A new Section 6-49 is hereby established in the Leavenworth Code of Ordinances, to read as follows:

Sec. 6-49. License Suspension/Revocation by City Commission.

- (a) The governing body of the city, upon five (5) days' notice to the persons holding a license to sell enhanced cereal malt beverages, may revoke or suspend the license for any one of the following reasons:
 - (1) The licensee has violated any of the provisions of this chapter, or any provisions of K.S.A. 41-2701 *et seq.*, as amended;
 - (2) Drunkenness of the licensee or permitting any intoxicated person to remain upon the licensee's place of business;

- (3) The sale of cereal malt beverages or enhanced cereal malt beverages to any person under the legal age for consumption of cereal malt beverages or enhanced cereal malt beverages;
 - (4) Permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;
 - (5) For the sale or possession of, or for permitting any person to use or consume on the licensed premises, any alcoholic liquor, except enhanced cereal malt beverages; or
 - (6) The licensee has been convicted of a violation of the Kansas beer and cereal malt beverage keg registration act, as amended.
- (b) The provisions of subsections (a)(4) and (a)(5) shall not apply if such place of business or premises also are currently licensed as a club or drinking establishment pursuant to the Kansas club and drinking establishment act, as amended.
- (c) The governing body of the city, upon five (5) days' notice to the persons holding a license to sell enhanced cereal malt beverages, shall revoke or suspend the license for any one 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 become ineligible to obtain a license under this article;
 - (3) The nonpayment of any license fees;
 - (4) For permitting any gambling in or upon any premises licensed under this article;
 - (5) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
 - (6) For the employment or continuation in employment of a person in connection with the sale, serving, or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, or another state, or the United States; or
 - (7) There has been a violation of K.S.A. 21-6204 (maintaining or permitting a public nuisance), as amended.
- (d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

Section 11. Section 6-93 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-93. Occupational taxes.

There is hereby levied an occupation tax, as provided in the city fee schedule, on any person holding a license issued by the state director of alcoholic beverage control for the following:

- (1) The retail sale within the city of alcoholic liquors for consumption off the premises;
- (2) All alcoholic liquor and/or cereal malt beverage distributors, for the first and each additional distributing place of business operated in the city by the same licensee;
- (3) All microbreweries and microdistilleries;
- (4) All farm wineries;
- (5) All persons engaged in a nonbeverage users' business.

Such tax shall be paid by the licensee to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license. A holder of any of the above-described licensees shall present such state license when applying to pay the occupation taxes levied herein, and the taxes shall be received and receipt issued for the period covered by the state license by the city license collector. The occupation tax is nonrefundable and non-transferable.

Section 12. Section 6-98 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-98. Days and hours of operation.

- (a) No person shall sell at retail, alcoholic liquor in the original package:
 - (1) On Easter Sunday, Thanksgiving Day or Christmas Day;
 - (2) On all other Sundays, before 9:00 a.m. or after 8:00 p.m.; or
 - (3) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale is permitted.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for consumption off the premises at any time when alcoholic liquor is allowed by law to be served on the premises.

Section 13. Section 6-220 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 6-220. Business regulations.

- (a) No drinking establishment licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor or enhanced cereal malt beverages on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or enhanced cereal malt beverages shall be given, sold or traded to any person under 21 years of age.
- (d) A club or drinking establishment licensee shall allow the licensee to allow legal patrons of the club or drinking establishment to remove alcoholic liquor or enhanced cereal malt beverages from the licensed premises in one or more containers, including in the original unopened container, subject to the following conditions:
 - (1) It must be otherwise legal for the licensee to sell the alcoholic liquor or enhanced cereal malt beverage;
 - (2) Each container of alcoholic liquor or enhanced cereal malt beverage must have been purchased by a patron of the licensed premises;
 - (3) The licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor or enhanced cereal malt beverage;
 - (4) Before any container of alcoholic liquor or enhanced cereal malt beverage is removed from the licensed premises, the licensee or the licensee's employee must securely reseal any opened containers, and place the container in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened;

- (5) No original unopened containers of spirits may be removed from the licensed premises; and
- (6) No alcoholic liquor or enhanced cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

Nothing in this subsection (d) shall be construed as modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the City, regarding the transportation of alcoholic beverages.

Section 14. A new Section 6-221 is hereby established in the Leavenworth Code of Ordinances, to read as follows:

Sec. 6-221. Revocation or suspension of license.

The governing body, upon five (5) days' notice to the persons holding a license, may revoke or suspend any license pursuant to this article for any one or more of the following reasons:

- (a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.
- (b) The licensee has violated any of the provisions of this article or any rules or regulations adopted hereunder.
- (c) The licensee has become ineligible to obtain a license or permit under this article.
- (d) The licensee's manager or employee has been intoxicated while on duty.
- (e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee.
- (f) There has been a violation of provisions of laws of this city, this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on premises where alcoholic liquor is sold by such licensee.
- (g) The licensee, or its managing officers or any employee has purchased and displayed, on premises where alcoholic liquor is sold by such license, a federal wagering occupational stamp issued by the United States Treasury Department.
- (h) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal coil operated gambling device stamp for the premises issued by the United States Treasury Department.
- (i) The licensee holds a license as a Class B club, drinking establishment or caterer and has been found guilty of a violation of K.S.A., Article 10 of Chapter 44, under a decision or order of the Kansas Human Rights Commission which has become final.
- (j) There has been a violation of K.S.A. 21-6204 (maintaining or permitting a public nuisance), as amended.

Section 15. Subject to the provisions of Section 17 below, Sections 6-1, 6-2, 6-5, 6-7, 6-34, 6-36, 6-37, 6-44, 6-45, 6-93, 6-98, and 6-220 of the Leavenworth Code of Ordinances, in existence as of and prior to the adoption of this ordinance, are hereby repealed. The Leavenworth Code of Ordinances shall further be amended to reflect that, with the enacting of new Section 6-49, Sections 6-50 through 6-69 are reserved, and

Section 16. This ordinance shall take effect and be in force from and after its publication in the official city newspaper. Provided, that as to Section 9 and Section 12 of this ordinance

(amending Code Sections 6-45 and 6-98, respectively), and pursuant to K.S.A. 41-2911(b) (as amended by 2021 House Bill No. 2137), this ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper, and such Section 9 and Section 12 shall not become effective earlier than sixty (60) days following the date of its publication. If, within sixty (60) days following publication of this ordinance, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with K.S.A. 41-2911(b)(2), Section 9 and Section 12 of this ordinance shall not become effective until a proposition is submitted to and approved at an election as provided in K.S.A. 41-2911(b). The Sections of this ordinance shall be severable such that other sections of this ordinance not subject to such petition process shall take effect as provided above.

PASSED and APPROVED by the Governing Body on the _____ day of _____, 2021.

Nancy D. Bauder, Mayor

{SEAL}

ATTEST:

Carla K. Williamson CMC, City Clerk

First Consideration

Chapter 6 ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Beer, when its meaning is not enlarged, modified or limited by other words, means a beverage containing more than 3.2 percent of alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like having such alcoholic content.

Board means the state alcoholic beverage control board of review.

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.

Cereal malt beverage or *CMB* means any fermented but undistilled liquor brewed or made from malt or from malt or from a mixture of malt or malt substitute, or any flavored malt beverage, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

Class A club means premises which are owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the state, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (referred to in this chapter as members), and their families and guests accompanying them.

Class B club means 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 means a Class A or Class B club.

Director means the state director of alcoholic beverage control.

Distributor means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this chapter, or cereal malt beverage or enhanced cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2701 and amendments thereto.

¹State law reference(s)—Kansas Liquor Control Act, K.S.A. 41-101 et seq.

Domestic beer means beer which contains not more than 15 percent alcohol by weight and which is manufactured in this state.

Domestic fortified wine means wine which contains more than 14 percent, but not more than 20 percent alcohol by volume and which is manufactured in this state.

Domestic table wine means wine which contains not more than 14 percent alcohol by volume and which is manufactured without rectification or fortification ~~from agricultural products grown~~ in this state.

Drinking establishment has the meaning provided by K.S.A. 41-2601 and amendments thereto.

Enhanced cereal malt beverage means cereal malt beverage, as defined herein, and the term "enhanced cereal malt beverage" also includes beer containing not more than six percent alcohol by volume when such beer is sold by a retailer licensed under the Kansas Cereal Malt Beverage Act and the provisions of this chapter.

Farm winery means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

Food establishment has the meaning provided by K.S.A. 65-656 and amendments thereto.

General retailer means a person who has a license to sell enhanced cereal malt beverages at retail.

Legal age for consumption of enhanced cereal malt beverage means 21 years of age, except that legal age for consumption of cereal malt beverage shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

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

Manufacture means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer, enhanced cereal malt beverage, or cereal malt beverage.

Manufacturer means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package, and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors, beer, enhanced cereal malt beverage, or cereal malt beverage, regardless of its alcoholic content. The term "manufacturer" does not include a farm winery, microdistillery, or a microbrewery.

Microbrewery means a brewery licensed by the director to manufacture, store and sell domestic beer.

Microdistillery means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

Minor means any person under 21 years of age.

Nonbeverage user means any manufacturer of any of the products set forth and described in K.S.A. 41-501 and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for non-beverage purposes.

Original package means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.

~~Person means any natural person, corporation, partnership or association.~~

Person shall have the meaning set forth in Section 1-2 of this code.

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

Retailer means a person who is licensed under the Kansas liquor control act and sells, at retail, or offers for sale at retail, alcoholic liquors or enhanced cereal malt beverages, but does not include a microbrewery, microdistillery, or farm winery.

Sale means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether as principal, proprietor, agent, servant or employee.

Salesperson means any natural person who:

- (1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage; or
- (2) Is engaged in promoting the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, whether the seller resides within the state and sells to licensed buyers within the state, or whether the seller resides without the state and sells to licensed buyers within the state.

Sell at retail and *sale at retail* mean and refer to sales for use or consumption and not for resale in any form, and sales to clubs, licensed drinking establishments, licensed caterers, or holders of temporary permits. The term "sell at retail and sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer, or a holder of a state temporary permit.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whisky, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substance.

Supplier means a manufacturer of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

Temporary permit means a permit issued in accordance with the laws of the state, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises open to the public.

To sell means and includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

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

Wine means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries, or other agricultural products, including such beverages containing added alcohol or spirits, or containing sugar added for the purpose of correcting natural deficiencies. The term "wine" shall include hard cider and any other product that is commonly known as a subset of wine.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-2. City-owned properties, generally.

- (a) It shall be unlawful for any person to have any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage in his possession upon any public street, highway, alley, sidewalk, inside vehicles, or any other public property unless such alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage is 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 except as authorized hereinafter.

(b) Notwithstanding the foregoing, it shall not be a violation of subsection (a) above if the alcoholic liquor or enhanced cereal malt beverage, not in its original unopened package or container, has been removed from licensed premises in accordance with the provisions of K.S.A. 41-2653 regarding "to-go" beverages; provided, that such package or container has been sealed in accordance with such law and has not been opened; and further provided, that nothing in this subsection (b) shall be construed as modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the city, regarding the transportation of alcoholic beverages.

~~(b)~~(c) No person shall drink or consume any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage upon the public streets, alleys, sidewalks, roads or highways of the city or inside vehicles while upon such public streets, alleys, sidewalks, roads or highways, or in city-owned parks or other facilities or properties, unless authorized as provided in this section.

~~(e)~~(d) The above prohibitions shall not apply during events and the designated areas for such events in the city where:

- (1) A special event CMB permit has been approved in accordance with article II of this chapter; or
- (2) A temporary permit has been approved in accordance with article III, division 2, of this chapter, and the event has been approved by the city commission in accordance with K.S.A. 41-719.

~~(e)~~(e) Notwithstanding the foregoing, and pursuant to K.S.A. 41-719(e), as amended, the drinking or consumption of alcoholic liquor is permitted on the following city-owned properties and facilities without further approval from the city commission, provided that a temporary permit or a caterer's license has been approved in accordance with article III, division 2, of this chapter:

- (1) The community center located on North Esplanade north of Cherokee Street.
- (2) The Leavenworth Landing Park located east and south of above described community center.
- (3) The Haymarket Square, located at 7th and Cherokee.
- (4) The Havens Park, located at 22nd and Ottawa.
- (5) The Riverfront Park, located at the east end of Dakota Street.
- (6) Ray Miller Park, located at the corner of 4201 South 4th Street.
- (7) Leavenworth Public Library, located at 417 Spruce Street.
- (8) Performing Arts Center, 500 Delaware Street.

~~(e)~~(f) Notwithstanding the foregoing, cereal malt beverages are allowed to be possessed and consumed (but not served or sold) at city parks with a permit issued by the director of parks and recreation, subject to the following requirements:

- (1) The premises must have been rented from the city by the applicant; in advance;
- (2) Applicant must be 21 years of age or older and a city resident. Applicant is required to remain on the site throughout the function.
- (3) Applications must be submitted to the parks and recreation office at least five working days prior to the event.
- (4) The director of parks and recreation will notify the police department prior to the permitted event.
- (5) Permits may only be issued for the following types of activities:
 - a. Company picnics.
 - b. Fraternal organization picnics.

- c. Service club picnics.
- d. Family reunions.
- e. Other group functions, subject to the discretion of the director of parks and recreation.

The sale or service of cereal malt beverages on or from city-owned properties shall otherwise require a full cereal malt beverage license or a special event CMB permit.

~~f(g)~~ Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$200.00 or by imprisonment for not more than six months, or by both such fine and imprisonment.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-3. Possession and consumption restrictions.

- (a) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor or enhanced cereal malt beverages from any person except as authorized by law. Violation of this subsection by a person 18 or more years of age, but less than 21 years of age, is a misdemeanor punishable by a fine of not less than \$100.00 and not more than \$250.00 or by 40 hours of public service, or by both.
- (b) No person under 21 years of age shall possess or consume alcoholic liquor or enhanced cereal malt beverages except as authorized by law. Violation of this subsection by a person 18 or more years of age, but less than 21 years of age, is a misdemeanor punishable:
 - (1) By a fine of not less than \$100.00 and not more than \$250.00 or by 40 hours of public service, or by both, if committed on premises licensed pursuant to K.S.A. 41-2601 et seq., as amended; or
 - (2) By a fine of not less than \$25.00 and not more than \$250.00 or by ten hours of public service, or by both, if committed on any other premises.
- (c) Any person less than 18 years of age who violates subsections (a) or (b) of this section is a juvenile offender under the state juvenile offenders code and, upon adjudication thereof, shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment for the offense under subsection (a) or (b) of this section.
- (d) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of, any alcoholic liquor or enhanced cereal malt beverages 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. Violation of this subsection is a misdemeanor punishable by a fine of not less than \$100.00 and not exceeding \$250.00 or imprisonment not exceeding 30 days, or both.
- (e) No person except a manufacturer, distributor, microbrewery, farm winery or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor or enhanced cereal malt beverages with the same or any other kind or quality of alcoholic liquor. No person shall have in the person's possession for sale at retail any bottles, casks or other containers containing alcoholic liquor or enhanced cereal malt beverages, except in original packages.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-4. Minors on premises of business.

Except as otherwise provided in this chapter as to enhanced cereal malt beverages:

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- (1) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption.
 - (2) It shall be unlawful for the operator, person in charge, or licensee of any premises licensed for on-premises consumption of alcoholic liquor to permit any person under the age of 21 years to remain on the premises.
 - (3) This section shall not apply if the person under the age of 21 years is accompanied by his parent or guardian, or if the licensed or permitted premises derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises, or where a caterer, farm winery, microbrewery, or temporary permit holder is serving alcoholic liquor.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-5. Possession and transportation.

Subject to the limitations provided in this section, the possession and transportation of alcoholic liquor and/or enhanced cereal malt beverages for other than personal use shall be unlawful.

- (1) No person shall transport in any vehicle upon a highway or street any alcoholic liquor or enhanced cereal malt beverage unless such liquor or beverage is:
 - a. 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;
 - ~~b.~~ Not in the original unopened package or container, provided that such alcoholic liquor or enhanced cereal malt beverage has been removed from licensed premises in accordance with the provisions of K.S.A. 41-2653 regarding "to-go" beverages; provided, that such package or container has been sealed in accordance with such law and has not been opened; and further provided, that nothing in this subsection (1)b. shall be construed or modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the city, regarding the transportation of alcoholic beverages.
 - ~~c.~~ 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
 - ~~d.~~ 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.

Violation of this subsection is a misdemeanor punishable by a fine of not more than \$200.00 or by imprisonment for not more than six months, or both.

- (2) It shall be unlawful for any person to transport any alcoholic liquor upon which the tax imposed by the state liquor control act has not been paid or on the containers of which each mark and stamp required by the state liquor control act has not been affixed, provided that nothing contained in this subsection shall make unlawful the possession and transportation of wine imported solely for use by any church or religious organization for sacramental purposes and uses. Any person who shall violate any of the provisions of this subsection shall, upon conviction thereof, be fined not exceeding \$500.00, or shall be imprisoned not exceeding six months, or both, in the discretion of the court; and in proper cases, the court may order and direct the confiscation of the liquor involved in such transaction as part of the judgment or conviction.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-6. Open saloons.

It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon within the corporate limits of the city. As used in this section, the term "open saloon" means any place, public or private, where alcoholic liquor or enhanced cereal malt beverage is sold or offered or kept for sale by the drink or in any quantity of less than 100 milliliters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the club and drinking establishment act, as amended, or any manufacturer, microbrewery, microdistillery, or farm winery, if authorized by state statute, or any premises where the sale of enhanced cereal malt beverages are authorized by this chapter. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00, and by imprisonment for not more than 90 days.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-7. Revocation; penalties.

- (a) ~~The~~ Unless specific provisions for the suspension or revocation as to a particular license are provided elsewhere in this chapter, the city commission upon five days' notice to the person holding a license or permit under this chapter may revoke such license for any one of the following reasons:
- (1) If a licensee or permit holder has fraudulently obtained the license by giving false information in the application therefor.
 - (2) If the licensee or permit holder has violated any of the provisions of this chapter or any other rules or regulations of the city relating to alcoholic liquor or enhanced cereal malt beverages, or if the licensee or permit holder has violated any law of the state, for which violation the city is authorized by law to revoke the license.
 - (3) If the licensee or permit holder has become ineligible to obtain a license or permit under this chapter.
 - (4) Drunkenness of a person holding such license or permit, drunkenness of a licensee's or permittee's manager or employee while on duty and while on the premises for which the license or permit is issued, or for a licensee or permittee, his manager or employee permitting any intoxicated person to remain in such place selling alcoholic liquor.
 - (5) The nonpayment of any license or permit fees or occupation tax.
- Additionally, the police chief or his designee may immediately cancel a temporary permit or a special event CMB permit if the event becomes unruly or if the permit holder has violated any of the provisions of this chapter.
- (b) ~~The~~ Unless specific provisions for the suspension or revocation as to a particular license are provided elsewhere in this chapter, the licensee, within 20 days after the order of the city commission revoking any license or permit pursuant to this chapter, may appeal to the district court of the county and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license or permit of any licensee or permittee, nor shall any new license or permit be issued to such person or any person acting for or on his behalf, for a period of six months thereafter.
- (c) In addition to the provisions of subsection (a) of this section, and except where other penalties are provided, if the licensee or permit holder has violated any of the provisions of this chapter, the individual holding the license or permit may be charged in municipal court with a violation of the alcoholic liquor laws of the city and, upon conviction, shall be punished by:

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- (1) A fine of not more than \$499.00;
 - (2) Imprisonment in jail for not more than 179 days; or
 - (3) Both such fine and imprisonment.

(Ord. No. 8098 , § 1, 3-26-2019)

Secs. 6-8—6-32. Reserved.

ARTICLE II. CEREAL MALT BEVERAGES

DIVISION 1. GENERALLY

Sec. 6-33. License required of retailers.

- (a) It shall be unlawful for any person to sell any enhanced cereal malt beverage at retail without a license for each place of business where enhanced cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell enhanced cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any enhanced cereal malt beverage in any other manner.
- (c) The cereal malt beverage license issued by the city pursuant to this article authorizes the sale of enhanced cereal malt beverages by those retailers in compliance with this article and such other laws and regulations that may apply.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-34. Application.

- (a) Any person desiring a license shall make an application to the city commission 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, and shall contain:
 - (1) The name and residence of the applicant ~~and how long he has resided within the state;~~
 - (2) The particular place for which a license is desired;
 - (3) The name of the owner of the premises upon which the place of business is located;
 - (4) The names 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 21 years of age and that he 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.

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- (b) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he has inspected the premises to be licensed and that the same comply with the provisions of chapter 22 of this Code.
 - (c) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he has inspected the premises to be licensed and that the same comply with the provisions of chapter 20 of this Code.
 - (d) 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 copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he is qualified as a licensee under the provisions of this article. The chief shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the city commission at the earliest meeting consistent with current notification requirements.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-35. License application procedures.

- (a) All applications for a new and renewed enhanced cereal malt beverage license shall be submitted to the city clerk ten days in advance of the city commission meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with chapters 20 and 22 of this Code. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.
- (d) The city commission will not consider any application for a new or renewed license that has not been submitted ten days in advance and been reviewed by the above city departments.
- (e) An applicant who has not had a cereal malt beverage license or enhanced cereal malt beverage license in the city shall attend the city commission meeting when the application for a new license will be considered.
- (f) Pursuant to K.S.A. 41-2703a, as amended, any limited liability company applying for a license under the Kansas Cereal Malt Beverage Act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-36. License fees; term.

- (a) The license fees for selling enhanced cereal malt beverages shall be as provided in the city fee schedule. Such fee shall be in addition to such fees as are to be remitted to the division of alcohol beverage control pursuant to K.S.A. ~~41-2704~~41-2702, as amended. License fees are nonrefundable and non-transferable.
- (b) The full amount of the license fee shall be required regardless of the time of 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.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-37. Examination; approval; disqualification.

If the application made under this article is in proper form and accompanied by the license fee, the city commission shall examine the application, and if the applicant is qualified as provided by law the city commission shall approve the granting of a license to the applicant, provided that no license shall be issued to:

- ~~(1)~~ A person who has not been a resident in good faith of the state for at least one year immediately preceding application and a resident of the county for at least six months prior to filing of such application.
- ~~(2)~~(1) A person who is not a citizen of the United States.
- ~~(3)~~(2) A person who is not of good character and reputation in the community in which he resides.
- (43) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has 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.
- ~~(5)~~(4) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- ~~(6)~~(5) A corporation or a limited liability company if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than 25 percent of the stock or the ownership interests of such corporation or limited liability company would be ineligible to receive a license hereunder for any reason ~~other than nonresidence within the city or county.~~
- (7) A corporation or a limited liability company, if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than 25 percent of the stock or the ownership interests of such corporation or limited liability company, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock or the ownership interests of a corporation or limited liability company 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 would be ineligible to receive a retailer's license for any reason other than citizenship, ~~retailer residency requirements~~, or age, except that this subsection shall not apply in determining eligibility for a renewal license.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-38. Issuance; transfer; posting.

If the license is granted, the city commission shall direct the city clerk to issue a license by order of the city commission, and the minutes of the city commission shall show the action taken. The license shall not be transferable. The license shall state that it is not transferable and shall also show the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the licensee's place of business.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-39. Restrictions upon location.

- (a) No license shall be granted to sell at retail enhanced cereal malt beverages on premises which are located in areas not zoned for such purpose, or if the premises do not comply with other city laws, including building and health codes.
- (b) No license shall be granted to sell at retail enhanced cereal malt beverages at any place of business or location within 300 feet of any public or parochial school, college, church, nursing home, library or hospital, provided that if any such facility shall be established within 300 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. The distance shall be measured from the nearest property line of the school, college, church, nursing home, library or hospital to the nearest portion of the building occupied by the business selling or serving the beverages.
- (c) The prohibition set out in subsection (b) of this section shall not apply to properties that are located in the Central Business District or areas zoned General Business District, or to establishments located within the 300-foot limit as of the latest effective date of the ordinance from which this section is derived, so long as the license is and has been continuously held without allowing cancellation or lapse for a period of 30 days or more.
- (d) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the city commission. The city commission shall grant such waiver only following notice to property owners within such 300-foot distance (in such manner as the city may require) and a public hearing and a finding by the city commission that the proximity of the establishment is not adverse to the public welfare or safety.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-40. Change of location.

If a licensee desires to change the location of his place of business, he shall make an application to the city commission 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 amount of the application or license fee then charged by the city. 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.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-41. Suspension of license.

The chief of police, upon five days written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this article or other laws pertaining to cereal malt beverages or enhanced cereal malt beverages, which violation does not in his judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the city commission within seven days from the date of such order.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-42. General conduct of business.

- (a) The holder of a license under the provisions of this article shall conduct the business in an orderly manner, and it shall be unlawful for any licensee or agent or employee of the licensee to allow intoxicated persons to remain in such place of business or serve any enhanced cereal malt beverages to any intoxicated persons. 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.
- (b) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business. The place of business shall be open to the public and police at all times during business hours and no private rooms or booths shall be operated in any place of business; 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.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-43. Business regulations.

- (a) It shall be unlawful for a licensee to:
 - (1) Permit any person to mix drinks in or on the licensed premises, or to permit any person to mix drinks with materials purchased in the place of business or brought in for such purpose;
 - (2) Employ any person under the age established by the state for employment involving dispensing enhanced cereal malt beverages;
 - (3) Employ any person who has been adjudged guilty of a felony or of any violation of the intoxicating liquor law;
 - (4) Permit any gambling on the premises;
 - (5) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or consumption of any enhanced cereal malt beverages to any person under the legal age for consumption of enhanced cereal malt beverages;
 - (6) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or possession or consumption of alcoholic liquor within or upon any premises licensed under this article.
- (b) The provisions of subsections (a)(1) and (6) of this section shall not apply if the place of business or premises are also currently licensed as a club under a license issued by the state director of alcoholic beverage control.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-44. Minors on premises; loitering by underage persons.

- (a) No license under this article shall permit a person under the legal age for consumption of enhanced cereal malt beverages in or about a place of business, and no licensee shall permit a person under the legal age for consumption of enhanced cereal malt beverage to possess an enhanced cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell enhanced cereal malt beverage if:
 - (1) The licensee's place of business is licensed only to sell enhanced cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or

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- (2) The licensee's place of business is a licensed food establishment, and not less than ~~30-50~~ percent of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- (b) No person under the legal age for consumption of enhanced cereal malt beverages shall loaf or loiter or consume any enhanced cereal malt beverage in any place of business in the city for which an enhanced cereal malt beverage license for consumption on the premises has been issued.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-45. Days and hours of operation.

- (a) Except as provided by subsection (b) of this section, no enhanced cereal malt beverages may be sold or dispensed:
- (1) ~~Between _____~~ Except as to Sundays, between the hours of 12:00 midnight and 6:00 a.m.;
- (2) On Easter Sunday;
- ~~(2)(3)~~ In the original package before 12:00 noon-9:00 a.m. or after 8:00 p.m. on Sunday; all other Sundays; or
- ~~(3) —On Easter Sunday; or~~
- (4) 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 percent of its gross receipts from the sale of food for consumption on the licensed premises.
- (b) ~~Enhanced~~ Notwithstanding the foregoing, 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 both the Kansas cereal malt beverage act (K.S.A. 41-2701 et seq., and licensed as a club by the state director of alcoholic beverage control-) and the Kansas club and drinking establishment act (K.S.A. 41-2601 et seq.) at any time alcoholic liquor is allowed by law to be served on such premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-46. Sanitary conditions required.

All parts of the licensed premises including furnishings 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 restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one 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 health officer or designee.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-47. Windows and doors; regulation of electric signs and loudspeakers.

The windows and doors of every place within the city selling or dispensing enhanced cereal malt beverages shall be free and clear of any obstruction, either temporary or permanent, which may interfere with or shut off the

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view from the street of the inside of such place, and such place shall be kept clean, well ventilated and brightly lighted at all times when open for use. All signs shall comply with the city's sign regulations, as may be amended from time to time. There shall not be any loudspeakers from any musical instrument attached to the outside of any licensee's premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-48. State license for wholesalers and distributors.

It shall be unlawful for any wholesaler or distributor, or agent or employee thereof, to sell or deliver enhanced cereal malt beverages within the city to persons authorized under this article to sell enhanced cereal malt beverages within the city unless such wholesaler or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the state authorizing such sales.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-49. License Suspension/Revocation by City Commission.

(a) The governing body of the city, upon five (5) days' notice to the persons holding a license to sell enhanced cereal malt beverages, may revoke or suspend the license for any one of the following reasons:

- (1) The licensee has violated any of the provisions of this chapter, or any provisions of K.S.A. 41-2701 et seq., as amended;
- (2) Drunkenness of the licensee or permitting any intoxicated person to remain upon the licensee's place of business;
- (3) The sale of cereal malt beverages or enhanced cereal malt beverages to any person under the legal age for consumption of cereal malt beverages or enhanced cereal malt beverages;
- (4) Permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;
- (5) For the sale or possession of, or for permitting any person to use or consume on the licensed premises, any alcoholic liquor, except enhanced cereal malt beverages; or
- (6) The licensee has been convicted of a violation of the Kansas beer and cereal malt beverage keg registration act, as amended.

(b) The provisions of subsections (a)(4) and (a)(5) shall not apply if such place of business or premises also are currently licensed as a club or drinking establishment pursuant to the Kansas club and drinking establishment act, as amended.

(c) The governing body of the city, upon five (5) days' notice to the persons holding a license to sell enhanced cereal malt beverages, shall revoke or suspend the license for any one 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 become ineligible to obtain a license under this article;
- (3) The nonpayment of any license fees;
- (4) For permitting any gambling in or upon any premises licensed under this article;
- (5) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
- (6) For the employment or continuation in employment of a person in connection with the sale, serving, or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding

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two years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, or another state, or the United States; or

(7) There has been a violation of K.S.A. 21-6204 (maintaining or permitting a public nuisance), as amended.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

(K.S.A. 41-2708)

Secs. ~~6-49—6-696-50—6-69~~. Reserved.

DIVISION 2. SPECIAL EVENT CEREAL MALT BEVERAGE PERMITS.

Sec. 6-70. Permit required.

It shall be unlawful for any person to sell or serve any cereal malt beverage at any special event within the city without first obtaining a special event cereal malt beverage permit from the city clerk.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-71. Application; city-owned properties.

- (a) It shall be unlawful for any person to sell or serve any cereal malt beverage at a special event without first applying for a special event cereal malt beverage permit at least 14 days before the event. Written application for the special event CMB permit shall be made to the city clerk on the form used for annual cereal malt beverage sales or, when available, the special event cereal malt beverage permit application approved by the attorney general, as directed by the city clerk. In addition to any other information required, the applicant shall provide the following:
- (1) The name of the applicant (applicant must be 21 years of age or older and a city area resident; applicant is required to remain on the site throughout the function);
 - (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.
- (b) Notwithstanding the provisions of section 6-2, a special event cereal malt beverage permit may be issued by the city clerk for the following city-owned properties and facilities:
- (1) The community center located on North Esplanade north of Cherokee Street.
 - (2) The Leavenworth Landing Park located east and south of above described community center.
 - (3) The Haymarket Square, located at 7th and Cherokee.
 - (4) The Havens Park, located at 22nd and Ottawa.
 - (5) The Riverfront Park, located at the east end of Dakota Street.
 - (6) Ray Miller Park, located at the corner of 4201 South 4th Street.

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(7) Leavenworth Public Library, located at 417 Spruce Street.

(8) Performing Arts Center, 500 Delaware Street.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-72. Fee; display of receipt.

(a) There is hereby levied a special event cereal malt beverage permit fee in the amount as set out in the city fee schedule on each group or individual, which fee shall be paid before the event is begun. Such fee shall be in addition to the \$25.00 fee to be remitted to the division of alcohol beverage control pursuant to K.S.A. 41-2701, as amended. Permit fees are nonrefundable and non-transferable.

(b) Every special event cereal malt beverage 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 CMB permit is serving cereal malt beverage for consumption on the premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-73. Issuance.

Upon meeting the requirements to obtain a special event cereal malt beverage permit, payment of the city's permit fee, and a written application as provided for in section 6-72, the city clerk shall issue a special event cereal malt beverage permit to the applicant if there are no conflicts with any zoning or other ordinances of the city. The city clerk shall notify the chief of police whenever a special event cereal malt beverage permit has been issued and forward a copy of the permit and application to the chief of police.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-74. Restrictions.

(a) No special event cereal malt beverage permit holder shall allow the serving or consumption of cereal malt beverage between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a special event cereal malt beverage permit has been issued.

(b) No cereal malt beverage shall be given, sold or traded to any person under 21 years of age.

(c) No more than four special event permits may be issued in a calendar year to the same applicant.

(d) No special event cereal malt beverage permit issued hereunder may be transferred or assigned to any other vendor.

(e) All local ordinances and state statutes for the sale and consumption of cereal malt beverage apply to holders of special event cereal malt beverage permits.

(Ord. No. 8098 , § 1, 3-26-2019)

Secs. 6-75—6-91. Reserved.

ARTICLE III. ALCOHOLIC LIQUOR

DIVISION 1. GENERALLY

Sec. 6-92. License required.

- (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, as amended, without first having obtained a state license to do so.
- (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 this article, and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-93. Occupational taxes.

There is hereby levied an occupation tax, as provided in the city fee schedule, on any person holding a license issued by the state director of alcoholic beverage control for the following:

- (1) The retail sale within the city of alcoholic liquors for consumption off the premises;
- (2) All alcoholic liquor and/or cereal malt beverage distributors, for the first and each additional distributing place of business operated in the city by the same licensee;
- (3) All microbreweries and microdistilleries;
- (4) All farm wineries;
- (5) All persons engaged in a nonbeverage users' business.

Such tax shall be paid by the licensee to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license. A holder of any of the above-described licensees shall present such state license when applying to pay the occupation taxes levied herein, and the taxes shall be received and receipt issued for the period covered by the state license by the city license collector. The occupation tax is nonrefundable and non-transferable.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-94. Application; issuance.

All applications for new or renewal city licenses under this article shall be submitted to the city clerk. Upon presentation of a state license, payment of the city occupation tax 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 or alcoholic beverage ordinances of the city.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-95. Posting of receipt required.

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

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-96. Business regulations.

It shall be unlawful for a retailer of alcoholic liquor to:

- (1) Permit any person to mix drinks in or on the licensed premises unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 41-308d, and amendments thereto;
- (2) Employ any person under the age of 21 years in connection with the operation of such retail establishment;
- (3) Employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony;
- (4) Permit any gambling on the premises;
- (5) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or consumption of any alcoholic liquor or enhanced cereal malt beverages to or for any person under 21 years of age.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-97. Restrictions upon location.

- (a) No license shall be granted to sell at retail alcoholic liquor on premises which are located in areas not zoned for such purpose, or if the premises does not comply with other city laws, including building and health codes.
- (b) No license shall be granted to sell at retail alcoholic liquor at any place of business or location within 300 feet of any public or parochial school, college, church, nursing home, library or hospital, provided that if any such facility shall be established within 300 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. The distance shall be measured from the nearest property line of the school, college, church, nursing home, library or hospital to the nearest portion of the building occupied by the business selling or serving the beverages.
- (c) The prohibition set out in subsection (b) of this section shall not apply to properties that are located in the Central Business District or areas zoned General Business District, or to establishments located within the 300-foot limit as of the latest effective date of the ordinance from which this section is derived, so long as the license is and has been continuously held without allowing cancellation or lapse for a period of 30 days or more.
- (d) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the city commission. The city commission shall grant such waiver only following notice to property owners within such 300-foot distance (in such manner as the city may require) and a public hearing and a finding by the city commission that the proximity of the establishment is not adverse to the public welfare or safety.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-98. Days and hours of operation.

(a) No person shall sell at retail, alcoholic liquor in the original package:

~~(1) On Sunday before 12:00 noon or after 8:00 p.m.;~~

~~(2) On Easter Sunday, Thanksgiving Day or Christmas Day;~~

(2) On all other Sundays, before 9:00 a.m. or after 8:00 p.m.; or

(3) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale is permitted.

(b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for consumption off the premises at any time when alcoholic liquor is allowed by law to be served on the premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Secs. 6-99—6-124. Reserved.

DIVISION 2. TEMPORARY PERMITS

Sec. 6-125. Permit required.

It shall be unlawful for any person granted a temporary permit by the state to sell or serve any alcoholic liquor within the city without first obtaining a temporary permit from the state, and a local temporary permit from the city clerk.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-126. Application; city-owned properties.

(a) 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 14 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.

(b) Notwithstanding the provisions of section 6-2, a temporary permit may be issued by the city clerk for city-owned properties and facilities if the event has been approved by the city commission in accordance with K.S.A. 41-719.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-127. Fee; display of receipt.

- (a) There is hereby levied a temporary permit fee in the amount as provided in the city fee schedule 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. License fees are nonrefundable and non-transferable.
- (b) 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.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-128. Issuance.

Upon presentation of a state temporary permit application, payment of the city's temporary permit fee and a written application as provided for in section 6-126, the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city. 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.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-129. Restrictions.

- (a) 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.
- (b) No alcoholic liquor shall be given, sold or traded to any person under 21 years of age.

(Ord. No. 8098 , § 1, 3-26-2019)

Secs. 6-130—6-156. Reserved.

DIVISION 3. PRIVATE CLUBS

Sec. 6-157. License required.

It shall be unlawful for any person granted a private club license by the state to sell or serve any alcoholic liquor or enhanced cereal malt beverages authorized by such license within the city without first obtaining a local license from the city clerk.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-158. License fee.

There is hereby levied an annual 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, which fee shall be paid before business is begun

under an original state license and within five days after any renewal of a state license. The city license fee for a Class A club and Class B club shall be as provided in the city fee schedule.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-159. Application; issuance.

All applications for new or renewal city licenses under this article shall be submitted to the city clerk. Upon presentation of a state license, payment of the city occupation tax 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 or alcoholic beverage ordinances of the city.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-160. Term; refunds; display.

- (a) The license period for a license under this article shall extend for the period covered by the state license. License fees are nonrefundable and non-transferable.
- (b) Every licensee shall cause the city club license issued under this article to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-161. Business regulations.

- (a) No club licensee under this article shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced 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 21 years of age, nor shall alcoholic beverages or enhanced cereal malt beverages be given, sold or traded to any person under 21 years of age.

(Ord. No. 8098 , § 1, 3-26-2019)

Secs. 6-162—6-190. Reserved.

DIVISION 4. CATERERS

Sec. 6-191. Required.

It shall be unlawful for any person licensed by the state as a caterer to sell alcoholic liquor or enhanced cereal malt beverages by the drink in the city without obtaining a local caterer's license from the city clerk.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-192. Fee.

There is hereby levied an annual license fee as provided in the city fee schedule 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 an original state license and within five days after any renewal of a state license.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-193. Application; issuance.

All applications for new or renewal city licenses under this article 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 or alcoholic beverage ordinances of the city.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-194. Term; refunds; display.

- (a) The license period shall extend for the period covered by the state license. License fees are nonrefundable and non-transferable.
- (b) Every licensee shall cause the caterer's license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor or enhanced cereal malt beverages for consumption on the premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-195. Business regulations.

- (a) No caterer licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor or enhanced cereal malt beverages between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) No alcoholic beverages or enhanced cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-196. Notice to chief of police.

Prior to any event at which a caterer will sell or serve alcoholic liquor or enhanced cereal malt beverages by the individual drink, the caterer shall provide written notice to the chief of police at least seven days prior to the event if 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. No. 8098 , § 1, 3-26-2019)

Secs. 6-197—6-215. Reserved.

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DIVISION 5. DRINKING ESTABLISHMENTS

Sec. 6-216. License required.

It shall be unlawful for any person granted a drinking establishment license by the state to sell or serve any alcoholic liquor or enhanced cereal malt beverages authorized by such license within the city without first obtaining a city license from the city clerk.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-217. Fee.

There is hereby levied an annual license fee, as provided in the city fee schedule, on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-218. Application; issuance.

All applications for new or renewal city licenses under this article 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 or alcoholic beverage ordinances of the city.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-219. Term; refunds; display.

- (a) The license period for a license issued under this article shall extend for the period covered by the state license. License fees are nonrefundable and non-transferable.
- (b) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-220. Business regulations.

- (a) No drinking establishment licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor or enhanced cereal malt beverages on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No alcoholic beverages or enhanced cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

(d) A club or drinking establishment licensee shall allow the licensee to allow legal patrons of the club or drinking establishment to remove alcoholic liquor or enhanced cereal malt beverages from the licensed premises in one or more containers, including in the original unopened container, subject to the following conditions:

(1) It must be otherwise legal for the licensee to sell the alcoholic liquor or enhanced cereal malt beverage;

(2) Each container of alcoholic liquor or enhanced cereal malt beverage must have been purchased by a patron of the licensed premises;

(3) The licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor or enhanced cereal malt beverage;

(4) Before any container of alcoholic liquor or enhanced cereal malt beverage is removed from the licensed premises, the licensee or the licensee's employee must securely reseal any opened containers, and place the container in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened;

(5) No original unopened containers of spirits may be removed from the licensed premises; and

(6) No alcoholic liquor or enhanced cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

Nothing in this subsection (d) shall be construed as modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the City, regarding the transportation of alcoholic beverages.

(Ord. No. 8098 , § 1, 3-26-2019)

Sec. 6-221. Revocation or suspension of license.

The governing body, upon five (5) days' notice to the persons holding a license, may revoke or suspend any license pursuant to this article for any one or more of the following reasons:

(a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.

(b) The licensee has violated any of the provisions of this article or any rules or regulations adopted hereunder.

(c) The licensee has become ineligible to obtain a license or permit under this article.

(d) The licensee's manager or employee has been intoxicated while on duty.

(e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee.

(f) There has been a violation of provisions of laws of this city, this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on premises where alcoholic liquor is sold by such licensee.

(g) The licensee, or its managing officers or any employee has purchased and displayed, on premises where alcoholic liquor is sold by such license, a federal wagering occupational stamp issued by the United States Treasury Department.

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- (h) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal coil operated gambling device stamp for the premises issued by the United States Treasury Department.
 - (i) The licensee holds a license as a Class B club, drinking establishment or caterer and has been found guilty of a violation of K.S.A., Article 10 of Chapter 44, under a decision or order of the Kansas Human Rights Commission which has become final.
 - (j) There has been a violation of K.S.A. 21-6204 (maintaining or permitting a public nuisance), as amended.

Comparison