

Section 15. SANITARY CONDITION 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 a 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/county health officer or designee.

Section 16. MINORS ON PREMISES:

- (a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.
- (b) This shall not apply if the person under 21 years of age is an employee of the licensed establishment, or if accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 30 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

Section 17. AUTHORITY:

This ordinance is adopted by authority of and under the provisions of Article 12, Section 5 of the Kansas Constitution.

Passed by the council this 8th day of Sept, 2003.

Approved by Mayor: Lawell Cecil

Attest: Barbara Davis

City Clerk

Council Members:

Johnnie Hall

Richard Black

Deana Thurbin

Dean Houchin

Kenneth Ward

This Ordinance shall take effect and be in force from and after its publication in The Barber County Index.



ORDINANCE NO. 54

AN ORDINANCE REPEALING ORDINANCE NOS. 33 AND 46.

AN ORDINANCE REGULATING THE SALE OF CEREAL MALT BEVERAGES, PROVIDING FOR THE LICENSING OF PERSONS SELLING THE SAME, PRESCRIBING LICENSE FEES, PRESCRIBING RULES AND REGULATIONS, PROVIDING FOR THE REVOCATION OF LICENSES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

Section 1. LICENSE REQUIRED OF RETAILERS:

(a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises to sell any cereal malt beverage in any other manner. (KSA 41-2702)

Section 2. APPLICATION:

Any person desiring a license shall make an application to the governing body of Sun City and accompany the application by the required license fee for each place of business for which the person desires a license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- (b) The particular place for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;
- (d) the names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
- (e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the county health officer certifying that he or she has inspected the premises to be licensed.
- (g) Each application for a general retailer's license must be accompanied by a certificate from the city/county fire chief certifying that he or she has inspected the premises to be licensed.

The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with information pertinent to the application. One copy of such application shall immediately be transmitted to the mayor of the city for investigation of the applicant. It

shall be the duty of the mayor to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The mayor shall report to the city council not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

Section 2A. LICENSE APPLICATION PROCEDURES:

- (a) All applications for a new or renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body 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 mayor, to the fire department and to the city/county health department when they are received. The mayor will run a records check on all applicants and the fire department and health dept. will inspect the premises. The departments will then recommend approval, or disapproval, of the applications within five working days of the department's receipt of the application.
- (d) The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the city/county departments.
- (e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

Section 3. LICENSE GRANTED; DENIED:

- (a) The journal of the governing body shall show the action taken on the application.
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- (c) No license shall be transferred to another licensee.
- (d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

Section 4. LICENSE TO BE POSTED:

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

Section 5. LICENSE, DISQUALIFICATION:

No license shall be issued to:

- (a) A person who has not been a resident in good faith of the State of Kansas for at least one year immediately preceding application and a resident of Barber County for at least six months prior to filing of such application.

- (b) A person who is not a citizen of the United States.
- (c) A person who is not of good character and reputation in the community in which he or she resides.
- (d) 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 had 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 of the United States.
- (e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- (f) A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be in ineligible to receive a license hereunder for any reason other than nonresidence within the city or county.
- (g) A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which(1) has had a retailer's license revoked under KSA 41-2708 and amendments thereto; or (2) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.
- (h) 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.
- (i) 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 (i) shall not apply in determining eligibility for a renewal license.

Section 6. RESTRICTION UPON LOCATION:

- (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.
- (b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 500 foot radius of any church, school or library.
- (c) Provisions shall not apply to any establishment holding a private club license issued by the State of Kansas.
- (d) The distance limitation of subsection(b) above shall not apply to any establishment hold a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.(KSA 41-2704)

(e) The distance limitation shall not apply to any licensee who already had a license prior to the effective date of this ordinance.

Section 7. LICENSE FEE:

The rules and regulations regarding license fees shall be as follows:

- (a) General Retailer - for each place of business selling cereal malt beverages at retail: \$100.00 per calendar year.
- (b) Limited Retailer - for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises: \$100.00 per calendar year.

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. (KSA 41-2702)

Section 8. SUSPENSION OF LICENSE:

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

Section 9. LICENSE SUSPENSION/REVOICATION BY THE GOVERNING BODY:

The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this section or has become ineligible to obtain a license under this section;
- (c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license has been issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;
- (d) The sale of cereal malt beverages to any person under 21 years of age;

- (e) For permitting any gambling in or upon any premises licensed.
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed or brought into the premises for this purpose;
- (g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages;
- (h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- (i) For the sale or possession of , or for permitting the use or consumption of alcoholic liquor within or upon any premises licensed;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license under this chapter;(d)
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.(KSA 41-2708)

Section 10. SAME; APPEAL:

The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Barber County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person, or any person acting for or on his or her behalf, for a period of six months thereafter. (KSA 41-2708)

Section 11. CHANGE OF LOCATION:

If a licensee desires to change the location of his or her place of business, he or she shall make application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$100. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

Section 12. WHOLESALERS AND/OR DISTRIBUTORS:

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized to sell the same within this city unless such wholesaler

and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (KSA 41-307:307a)

Section 13. BUSINESS REGULATIONS:

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

- (a) The place of business licensed and operating shall at all times have a front and rear exit unlocked when open for business.
- (b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the mayor and the law enforcement and health officers of the city, county and state.
- (c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m. or consumed between the hours of 12:30 a.m. and 6:00 a.m., and all cereal malt beverages, along with their containers or receptacles shall be taken off the tables or counters, or on Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on licensed premises; closing hours for clubs shall conform to KSA 41-2614 and any amendments thereto.
- (d) 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 KSA 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.
- (e) The place of business shall be open to the public and the mayor and law enforcement officers at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the mayor/law enforcement officers and not to the public.
- (f) 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.
- (g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.
- (h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under 21 years of age.
- (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
- (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials

purchased in said place of business or brought in for such purpose.

(k) No licensee or agent or employee of the licensee shall permit any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

Section 14. PROHIBITED CONDUCT ON PREMISES:

The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breast below the top of the areola or any portion of males/females pubic hair, anus, buttocks or genitals;

(b) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or patron;

(c) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any employee;

(d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

- (1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or
 - (2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.
- (e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d).
- (f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction or other visual reproduction depicting:

- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy or any sexual act which is prohibited by law;
- (2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;
- (3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) The term "premises" means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.