

Chapter 5.12 CEREAL MALT BEVERAGES¹

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5.12.010 Definitions.

As used in this Chapter, the words and phrases defined in this Section shall have the following meanings, unless the context otherwise requires.

- A. "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.
- B. "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.
- C. "Beer," when its meaning is not enlarged, modified, or limited by other words, means a beverage, containing more than 3.2% Alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such

¹ For statutory provisions regarding the licensing and regulation of sales of cereal malt beverages, see K.S.A. 41-2701 et seq.

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- alcoholic content.
- D. "Calendar Year" means January 1st to December 31st, both dates inclusive, of each year.
 - E. "Cereal Malt Beverage" includes any fermented but undistilled liquor brewed or made from malt or a mixture of malt and/or malt substitute, or any flavored malt beverage, as defined in K.S.A. 2009 Supp. 41-2729, and amendments thereto, but does not include any such liquor which contains more than 3.2% Alcohol by weight.
 - F. "The City" or "this City" means the City of Overland Park, Kansas.
 - G. "The County" or "this County" means Johnson County, Kansas.
 - H. "Director" means the Director of Alcoholic Beverage Control of the Kansas State Department of Revenue.
 - I. "Drink" means an individual serving of Cereal Malt Beverage or Non-alcoholic Malt Beverage.
 - J. "General Retailer" is a person who has a license to sell Cereal Malt Beverages and Non-alcoholic Malt Beverages at retail for consumption on the licensed premises.
 - K. "Governing Body" means the Mayor and Council of this City.
 - L. "Legal Age for Consumption of Cereal Malt Beverage" means 21 years of age.
 - M. "Licensee" means the Person to whom the license required under this Chapter is issued as well as any manager, agent or employee of such Person at the licensed Place of Business.
 - N. "Limited Retailer" is a Person who has a license to sell Cereal Malt Beverages and Non-alcoholic Malt Beverages at retail only in original and unopened containers and not for consumption on the premises.
 - O. "Non-alcoholic Malt Beverage" means a beverage containing less than 0.5% Alcohol by volume obtained by Alcohol fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes Beer, ale, stout, lager Beer, porter and similar beverages having such alcoholic content.
 - P. "Person" means any natural person, partnership, corporation, firm, association, trust, or limited liability partnership or corporation.
 - Q. "Place of Business" means any place at which Cereal Malt Beverages and Non-alcoholic Malt Beverages are sold.
 - R. "Morals Charge" means and includes those charges involving prostitution, procuring any Person; soliciting of a child under 18 for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; crimes against nature, or lewd and lascivious behavior.
 - S. "Sale at Retail" and "Retail Sale" means sales for use or consumption and not for resale in any form.
 - T. "Spirits" means any beverage which contains Alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with Alcohol or other substances.
 - U. "The State" or "this State" means the State of Kansas.
 - V. "Tavern" is an establishment in which the predominant source of income, exclusive of admission charges, is attributable to the sale of Cereal Malt Beverages or Non-alcoholic

Malt Beverages. Revenue will be attributed to the sale of Cereal Malt Beverages or Non-alcoholic Malt Beverages where money is ostensibly received for another product or service and the purchase of that product or service entitles the purchaser to Cereal Malt Beverage or Non-alcoholic Malt Beverage at no further charge or at a reduced charge.

- W. "Wholesaler" or "Distributor" means any Person who sells or offers for sale any Cereal Malt Beverage, Non-alcoholic Malt Beverage or Wine to any Person authorized by law to sell Cereal Malt Beverages, Non-alcoholic Malt Beverages or Wine at retail.
- X. "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 Alcohol or Spirits or containing sugar added for the purpose of correcting natural deficiencies.

(History: Ord. CMB-2874 §1, 2010; CMB-2186 §1, 99; CMB-1654 §1, 90; CMB-1450 §1, 87; CMB1380 §1, 86; CMB-1319 §1, 85; CMB-1041 §1, 79; CMB-861)

5.12.020 License required - Unlawful acts.

- A. It is unlawful for any Person to Sell at Retail any Cereal Malt Beverages or Non-alcoholic Malt Beverages within the City limits without having in such Person's possession a valid unexpired, unrevoked license issued by the City for the Place of Business at which such sales are made provided any Person issued a valid, unexpired, unrevoked license to operate a Class A club, Class B club, drinking establishment, or as a caterer by the Alcohol Beverage Control Division of the State of Kansas shall not be required to possess a Cereal Malt Beverage license in order to serve Non-alcoholic Malt Beverages, provided further such Persons must possess a Cereal Malt Beverage license in order to Sell at Retail Cereal Malt Beverages. It is unlawful for any Person holding a license for the Sale at Retail of Cereal Malt Beverages or Non-alcoholic Malt Beverages only in original and unopened containers and not for consumption on the premises to sell such beverages in any other manner than is provided for in the license. It is unlawful for a Person holding a license to sell Cereal Malt Beverages for consumption on the licensed premises to sell Cereal Malt Beverages for consumption off the premises.
- B. Nothing contained in this Chapter shall prohibit the serving of complimentary Alcoholic Liquor or Cereal Malt Beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such Alcoholic Liquor at such fund raising activities shall not constitute a sale pursuant to this Chapter, nor require any such fund raising activity to obtain a license or a temporary permit.

(History: Ord. CMB-2874 §2, 2010; CMB-2186, §2, 99; CMB-1654 §2, 90; CMB-1319 §2, 85; CMB-76 §2, 60)

5.12.030 Application for license - Investigation.

Any Person desiring to secure a license under the provisions of this Chapter shall make a verified application to the City Clerk and accompany the application by the required license fee for the Place of Business for which a license is required. The application shall be made upon a form which shall have been approved by the Attorney General of the State and shall contain:

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- A. The name and residence of the applicant;
- B. The length of time that the applicant has resided within the State of Kansas;
- C. The particular place for which a license is desired;
- D. The name of the owner of the premises upon which the Place of Business is located;
- E. A statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application, been convicted of a felony or any crime involving a Morals charge, or drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor, or operating or attempting to operate a motor vehicle while the Alcohol concentration in the Person's blood or breath is .08 or more, as measured from samples taken within two hours after the Person operated or attempted to operate the vehicle, or the violation of any other law of this City or State or any other city or state or of the United States pertaining to Alcoholic Liquor or Cereal Malt Beverages or Non-alcoholic Malt Beverages.

One copy of such application shall be transmitted by the City Clerk to the Chief of Police for investigation of the applicant and inspection of the Place of Business for which a license is desired. The Chief of Police shall investigate such application and determine whether the applicant is qualified to receive a license under the provisions of this Chapter and shall report the findings and recommendations made to the City Clerk.

(History: Ord. CMB-2874 §3, 2010; CMB-2186 §3, 99; CMB-2101 §1, 98; CMB-1654 §3, 90; CMB-1319 §3, 85; Modified during codification under authority of K.S.A. 12-3015; Ord. CMB-76 §3, 60)

5.12.040 License Fees - Nontransferability.

- A. The following fees are prescribed for each license authorized by this Chapter:
 - 1. General Retailer. For each Place of Business selling Cereal Malt Beverages or Non-alcoholic Malt Beverages at retail for consumption on the licensed premises, \$100.00 for the license year;
 - 2. Limited Retailer. For each Place of Business selling only at retail, Cereal Malt Beverages or Non-alcoholic Malt Beverages in original and unopened containers and not for consumption on the licensed premises, \$50.00 per license year.
 - 3. Special Permit. For each special permit, \$50.00 per event.
- B. Except as provided otherwise herein, the license fee shall be assessed and issued for a one year term. Persons applying for a license after the effective date of this Ordinance shall be issued a license for a one year term beginning on the date the license is issued. There shall be no refund when the license is revoked or suspended for any cause provided for under this Chapter. The City Clerk is authorized to issue a prorated refund of the license fees paid for any period in which the Licensee shall not use such license as

the result of the license being canceled at the request of the Licensee and for voluntary reasons. No license issued under this Chapter shall be transferable to another Person.

- C. Payment of all fees required to be paid pursuant to this Section may be made by personal, certified or cashier's check, money order, debit or credit card or cash, in a manner prescribed by the City Clerk.

(History: Ord. CMB-2874 §4, 2010; CMB-2224 §1, 2000; CMB-2186 §4, 99; CMB-1654 §4, 90; CMB-861 §2, 76; CMB-76B §4, 60)

5.12.045 Temporary Permit.

A temporary permit for the sale of CMB may be issued for the purpose of selling CMB at special events authorized by the Governing Body pursuant to the provisions of O.P.M.C. 11.48.160(A). The term of the temporary permit shall not exceed three days. Applicants for temporary permits must meet the license requirements set forth herein. In addition, applicants for a temporary permit shall provide a diagram accurately describing the premises and/or property where CMB will be sold, served, dispensed or consumed during the special event and a statement describing the security for the special event.

(History: Ord. CMB-2227 §1, 2000; CMB-2224 §2, 2000)

5.12.050 Examination of application - Issuance of license - Disqualifications.

- A. If the application is in proper form and accompanied by the proper license fee, the City Clerk shall examine the application; and after such examination, issue the license if the applicant is qualified as provided by law; provided that no license shall be issued to an applicant who does not meet the license qualifications set forth in K.S.A. 41-2703 and amendments thereto, or to an applicant or Licensee that is indebted to the City.

The City Clerk shall keep, as a public record, a list of all licenses issued under this Chapter, together with the class and expiration date of each. Among other things, the license shall state that it is not transferable to other Persons and the license year for which issued. The license shall be kept posted in a conspicuous place in the Place of Business licensed.

- B. Renewal licenses may be issued by the City Clerk upon payment of the necessary fee if the Licensee has not been suspended or revoked pursuant to Section 5.12.070 during the license term and the Licensee continues to meet the qualifications for issuance of the license.
- C. If an application for a license is refused, the license fee accompanying the same shall be immediately returned to the Person who has made such application. If the City Clerk denies an application for a license, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek review by the Governing Body by filing a written notice of appeal

from the denial with the City Clerk within ten business days after the date of the notice of denial. The Governing Body shall determine the matter *de novo*, and if it determines the applicant is qualified as provided by law, shall direct the Clerk to issue the applicant a license; provided that no license shall be issued to an applicant who does not meet the license qualifications set forth in K.S.A. 41-2703 and amendments thereto, or to an applicant or Licensee that is indebted to the City.

(History: Ord. CMB-2874 §5, 2010; CMB-2388 §1, 2002; CMB-2186 §5, 99; CMB-1654 §5, 90; CMB-1450 §2, 87; CMB-1319 §4, 85; CMB-1145 §1, 81; CMB-861 §3, 76; CMB-76)

5.12.060 Regulations-Hours of Operation - Standards of Conduct - Minors - Alcoholic liquor - Sanitation.

A. Hours of Operation.

1. A limited retailer who is licensed to sell cereal malt beverages or non-alcoholic malt beverages at retail in the original package shall not sell cereal malt beverages or non-alcoholic malt beverages (a) On Sunday before 12 noon or after 8 p.m.; (b) on Easter Sunday; or (c) before 6 a.m. or after 12 midnight, on any day when the sale is permitted.
2. A general retailer who is licensed to sell cereal malt beverage and non-alcoholic malt beverage for consumption on the premises and who derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises shall not sell cereal malt beverages or non-alcoholic malt beverages (a) between the hours of 12 midnight and 6:00 a.m. of any day when the sale is permitted or (b) on Easter Sunday.
Notwithstanding the above, cereal malt beverages or non-alcoholic malt beverages may be sold on premises which are both licensed pursuant to this chapter and licensed as a club or drinking establishment at any time when alcoholic liquor is allowed to be served on the premises.
3. Temporary permit holders shall not be issued temporary permits to sell cereal malt beverages or non-alcoholic malt beverages at any time the sale of such beverages are prohibited in subparagraphs A.1 and 2 above.

B. Standards of Conduct.

1. No licensee shall permit private rooms or closed booths to be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club pursuant to the club and drinking establishment act.
2. Each place of business shall be open to the public and to law enforcement officers of the City at all times during business hours by the licensee, except that a premises licensed as a private club pursuant to the club and drinking establishment act shall be open to law enforcement officers and members but not to the general public.
3. Except as otherwise provided by this section, no licensee shall permit a person

under the legal age for consumption of cereal malt beverage or non-alcoholic malt beverage to consume or purchase, any cereal malt beverage or non-alcoholic malt beverage, in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage or non-alcoholic malt beverage if:

- a. the licensee's place of business is licensed only to sell at retail cereal malt beverage in the original package and not for consumption on the premises; or
 - b. the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than 50% 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.
4. No licensee shall permit any person to have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.
 5. Cereal malt beverages or non-alcoholic malt beverages may be sold on premises which are licensed pursuant to both the cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.
 6. No licensee shall knowingly sell, give away, dispose of, exchange or deliver any cereal malt beverage or non-alcoholic malt beverage to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of cereal malt beverage or non-alcoholic malt beverage.
 7. No licensee shall offer or serve any free cereal malt beverage or non-alcoholic malt beverage or alcoholic liquor in any form to any person; or
 8. No Licensee shall offer to serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee; or
 9. No licensee shall sell, offer to sell or serve any person an unlimited number of drinks during any set period for a fixed price except at private functions not open to the general public or to the general membership of a club; or
 10. No licensee shall sell, offer to sell or serve any drink to any person at any time at a price less than that charged the general public on that day, except at private functions not open to the general public; or
 11. No licensee shall increase the size of a drink without increasing proportionately the price regularly charged for the drink on that day; or
 12. No licensee shall encourage or permit on the business premises, any game or contest which involves drinking cereal malt beverage or non-alcoholic malt beverage or the awarding of drinks as prizes; or
 13. No licensee shall advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections 7 through 12; or
 14. Nothing in subsections 7 through 13 shall be construed to prohibit a licensee from offering free food or entertainment at any time.

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15. Every licensee shall make available at any time upon request a price list showing the licensee's current prices for all cereal malt beverages or non-alcoholic malt beverages.
16. The licensee, in the operation of such place of business, shall at all times comply with the sanitary, health, building and fire code regulations and all ordinances of the city.
17. The licensee shall require that all patrons or customers of any place of business licensed as a general retailer and constituting a tavern, as defined above, shall exit and be off the premises of the place of business prior to and not later than one half hour after the legal hour of closing; provided however, a tavern, upon application to the Governing Body can secure a special permit to remain open after the legal hour of closing if the tavern adequately shows that the business is so conducted that a nuisance to the surrounding neighborhood will not occur, and the premises are in conformity with the zoning requirements of the city. Provided however, even if a special permit is secured by a tavern to remain open after the legal hour of closing, all cereal malt beverages or non-alcoholic malt beverages must be consumed prior to and not later than one-half hour after the legal hour of closing. The permit shall be issued for the period from January 1st through December 31 of each year.

The special permit may be revoked after at least ten days' notification to the permit holder of the Governing Body's determination that the after-hours' operation of the tavern is a nuisance in that it has resulted in such an unreasonable amount of noise as to constitute an annoyance and a discomfort to the neighboring residents; or that the tavern's patrons habitually use obscene language or habitually engage in lewd acts.

18. Licensees of those establishments herein defined as "taverns" in 5.12.010 shall, in addition to all other requirements of this chapter, comply with the following requirements for the conduct and operation of such establishment:
 - a. Prevent the removal from such establishment of open containers, in any form whatsoever, of cereal malt beverages or non-alcoholic malt beverages.
 - b. Be responsible for removing all trash, litter and debris from the property and parking lot of such establishment.
 - c. Provide necessary customer parking as required under the city zoning ordinances or as required by the city in the issuance of a special use permit for the conduct of a "tavern" business.
 - d. Provide plumbing facilities as required by O.P.M.C. Chapter 16.130 and the City's adopted edition of the International Plumbing Code.
 - e. Exclude any and all persons under the legal age for consumption of cereal malt beverage or non-alcoholic malt beverage from the premises.

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19. The licensee shall notify the City Clerk's office of any change in the manager, owner or incorporators of the licensee's place of business, and the notification must be received in the City Clerk's office within 10 days of such change.
20. A violation of, or non-compliance with, the provisions of this section shall be grounds for the revocation of such license under the provisions of 5.12.070.

(History: Ord. AL-2591 §1, 2005; AL-2566 §1, 2005; CMB-2460 §1, 2004; NOI-2287 §7, 2001; CMB-2247 §1, 2001; CMB-1873 §1, 94; CMB-1654 §6, 90; CMB-1450 §3, 87; CMB-1446 § 1, 87; CMB-1380 §2, 86; CMB-1319 §5, 85; CMB-1176 §1, 82; CMB-1145 §2, 81)

5.12.065 Nudity or Semi-nudity Prohibited - Standards of Conduct for Entertainment.

Repealed.

(History: Ord. CMB-2030 § 1, 97; CMB-PCT-1636 §1, 90; CMB-PCT-1561 §1, 88)

5.12.070 Revocation or suspension license.

- A. After at least five days notification to any person holding any license issued under this chapter that the Governing Body of the City is, on a date certain, to take some action on such license, the Governing Body shall revoke or suspend such license for any of the following reasons:
 1. The licensee has fraudulently obtained the license by giving false information in the application therefor;
 2. The licensee has violated any of the provisions of this chapter or any rule or regulations made by the Governing Body as the case may be;
 3. The licensee has become ineligible to obtain a license in this chapter;
 4. Drunkenness of the licensee at the licensed premises or permitting any intoxicated or disorderly person to remain in the licensee's premises. For purposes of this subsection the term "drunkenness" shall mean that a person's faculties, physical and/or mental, are impaired by the consumption of alcohol;
 5. The sale of cereal malt beverages or non-alcoholic malt beverages to any person under the legal age for consumption of cereal malt beverage or non-alcoholic malt beverage;
 6. The nonpayment of any license fees;
 7. Permitting any gambling in or upon the licensee's place of business;
 8. Permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;
 9. The employment of persons under 18 years of age in dispensing cereal malt beverages or non-alcoholic malt beverages;
 10. The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverage if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the alcoholic liquor laws of this city or state or any other City or state;
 11. The sale or possession of or permitting any person to use or consume on the licensed premises any alcoholic liquor;

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12. The licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act;
 13. The submission to the Governing Body by the Chief of Police proof of five violations committed by or permitted by a licensee, or the licensee's agent or employee, on the business premises including the parking lot, within the preceding year, of any statutes or ordinances regulating such business and of any ordinance in Title 11 of the Overland Park Municipal Code.
- B. The provisions of subsections A(8) and (11) shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment under the club and drinking establishment act.
- C. Within 20 days after the order of the Governing Body 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. Provided further that no person who has had a proprietary interest in a licensee whose cereal malt beverage and non-alcoholic malt beverage license is revoked as hereinbefore provided, or any person acting for or on such person's behalf, shall be granted a license for the sale of cereal malt beverages or non-alcoholic malt beverages within the City, for a period of 180 days following the date of revocation of the license; provided further that no person who has had a proprietary interest in a licensee whose cereal malt beverage and non-alcoholic malt beverage license has been revoked as hereinbefore provided shall be employed in a place of business which sells or distributes cereal malt beverages or non-alcoholic malt beverages for consumption on the premises, for a period of 180 days following the date of revocation of the license.

(History: Ord. CMB-2388 §2, 2002; CMB-1939 §1, 95; CMB-1654 §7, 90; CMB-1450 §4, 87; CMB-1319 §6, 85; CMB-1145 §3, 81; CMB-1041 §3, 79)

5.12.080 Retail sales by wholesalers prohibited.

It is unlawful for any wholesaler or distributor, or such person's agent or employee to sell or deliver cereal malt beverages or non-alcoholic malt beverages within the corporate limits of the city to other persons than those licensed to sell such beverages at retail within the city.

(History: Ord. CMB-1654 §8,90; CMB-1319 §7,85; CMB-76 §8,60)

5.12.090 Change of location.

The Place of Business of any Licensee may be changed from one location to another within the City upon special application to the City Clerk describing the new location and upon the approval of the City Clerk and the payment of a fee of \$5.00.

(History: Ord. CMB-2874 §6, 2010; CMB-76 §9, 60)

5.12.100 Sale on credit.

A licensed retailer may sell cereal malt beverages or nonalcoholic malt beverages at retail to a consumer on credit, pursuant to a credit card which entitles the user of the card to purchase goods or services from at least 100 persons not related to the issuer of the card.

(History: Ord. CMB-1972 1, 96; CMB-1967 §1, 96; CMB-1654 §9, 90; CMB-76 §10, 60)

5.12.110 Beer in public places - Unlawful acts.

Repealed. See: 11.48.160.

(History: Ord. CMB-1319 §17, 85; CMB-76E §1, 69; CMB-76C §1, 66; CMB-76 §11, 60)

5.12.120 Persons under 18 years of age - Receiving prohibited.

Repealed. See: 11.48.110.

(History: Ord. CMB-1319 §17, 85; CMB-1145 §4, 81; POC-625 §83, 72)

5.12.130 Furnishing for persons under 18 years of age.

Repealed. See: 11.48.120.

(History: Ord. CMB-1319 §17, 85; CMB-1145 §5, 81; CMB-SM-179)

5.12.140 Placement of buildings for consumption.

Repealed. See: ZRR-1429.

(History: Ord.CMB-1430 §1, 87; CMB-1319 §11, 85; CMB-1041 §4, 79; CMB-861)

5.12.150 Furnishing to persons from buildings within 200 feet of another building.

Repealed. See: ZRR-1429.

(History: Ord. CMB-1430 §1, 87; CMB-1319 §12, 85; CMB-861 §7, 76; CMA-353)

5.12.160 Private property.

Nothing in this chapter shall be deemed to prevent, regulate or control the consumption of cereal malt beverage, non-alcoholic malt beverages and alcoholic liquor upon private property by those occupying such private property as the owner, or as a lessee of an owner and by the guests of the owner or lessee, provided that no charge is made by the owner or lessee for the serving or mixing of any drink or drinks of cereal malt beverage, non-alcoholic malt beverages or alcoholic liquor or for any substance co-mixed with such beverages.

(History: Ord. CMB-1654 §10, 90; CMB-1319 §13, 85; CMA-353 §3, 65)

5.12.170 Alcoholic beverage defined.

Repealed. See: 5.48.010.

(History: Ord. CMB-1319 §17, 85; CMA-353 §5, 65)

5.12.180 Violation - Penalty.

Any person, convicted of a violation of this chapter shall be fined not less than \$100 nor more than \$500 or imprisoned for a maximum of 6 months, or both such fine and imprisonment in addition to any action that may be taken pursuant to 5.12.070.

(History: Ord. CMB-1319 §14, 85; Amended during codification in accordance with K.S.A. 12-3015; Ord.CMA-353 §6, 65; CMB-SM-179 §3, 63; CMB-76 §12, 60)

5.12.190 Separability.

If any part or parts of this ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts thereof would be declared invalid.

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(History: Ord. CMB-1319 §15, 85)

5.12.200 Savings Clause.

Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(History: Ord. CMB-1319 §16, 85)

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