

Chapter 5.20
PRIVATE CLUBS, DRINKING ESTABLISHMENTS,
AND CATERERS¹

Sections:

- 5.20.010 Annual license tax. (Repealed. See 5.20.065)
- 5.20.020 Levy. (Repealed. See 5.20.070)
- 5.20.025 Nudity or Semi-nudity Prohibited - Standards of conduct for entertainment. (Repealed. See 5.20.110)
- 5.20.030 Hours of Closing. (Repealed. See 5.20.100)
- 5.20.035 Caterer and temporary permit holder notification. (Repealed. See 5.20.135)
- 5.20.040 Separability. (Repealed. See 5.20.160)
- 5.20.050 Savings Clause. (Repealed. See 5.20.165)
- 5.20.055 Definitions.
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- 5.20.155 Penalty for violation.
- 5.20.160 Separability.
- 5.20.165 Savings clause.

5.20.010 Annual license tax.

Repealed. See 5.20.065.

(History: Ord. CDC-1653 §2, 90; PCT-1453 §1, 87; PCOT-1322 §1, 85; PCOT-441 §1, 67)

¹ For statutory provisions authorizing the levying of a maximum \$250 annual occupational tax on Class B Private Clubs, see K.S.A. 41-2627.

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5.20.020 Levy.

Repealed. See 5.20.070.

(History: Ord. CDC-1653 §2, 90; PCT-1453,A §1, 87; PCT-1453 §2, 87; PCOT-1322 §2,1985; PCOT-441 §2, 67)

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

Repealed. See 5.20.110.

(History: Ord. CDC-1653 §2, 90; CMB-PCT-1636 §2, 90; CMB-PCT-1561 §2, 88)

5.20.030 Hours of Closing.

Repealed. See 5.20.100.

(History: Ord.CDC-1653 §2, 90; PCT-1453 §3, 87; PCOT-1322 §3, 85; AL-859 §1,75)

5.20.035 Caterer and Temporary Permit Holder notification.

Repealed. See 5.20.135.

(History: Ord. CDC-1653 §2, 90; PCT-1453 §4, 87)

5.20.040 Separability.

Repealed. See 5.20.160.

(History: Ord. CDC-1653 §2, 90; PCOT-1322 §4, 85)

5.20.050 Savings Clause.

Repealed. See 5.20.165.

(History: Ord. CDC-1653 §2, 90; PCOT-1322 §5, 85)

5.20.055 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 in any fermented liquid, whether rectified or diluted, whatever the origin, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol;
- B. "Alcoholic Liquor" means Alcohol, Spirits, Wine and Beer and every liquid or solid, patented or not, containing Alcohol, Spirits, Wine and 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 alcoholic content.
- D. "Beneficial Interest" shall not include any interest a Person may have as owner, operator, lessee or franchise holder of licensed Hotel or motel on the Premises of which a Club or Drinking Establishment is located.

- E. "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.
- F. "Cereal Malt Beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt 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 is more than 3.2% percent Alcohol by weight.
- G. "Cereal Malt Beverage Retailer" means any Person who sells or offers for sale any Cereal Malt Beverage for use or compensation and not for resale in any form.
- H. "Class A Club" means a Premises which is 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 Director, for the exclusive use of the corporation stockholders, partners, trust beneficiaries or associates (hereinafter referred to as "members"), and their families and guests accompanying them.
- I. "Class B Club" means a Premises operated for profit by a corporation, partnership or individual to which members of such Club may resort for the consumption of food or alcoholic beverages and for entertainment.
- J. "Club" means a Class A or Class B Club.
- K. "Director" means the Director of Alcoholic Beverage Control of the Kansas State Department of Revenue.
- L. "Drinking Establishment" means Premises which may be open to the general public, where Alcoholic Liquor by the individual drink is sold.
- M. "Employee" means any Person employed in the business of selling Cereal Malt Beverages or Alcoholic Liquor by Licensee.
- N. "Hotel" has the meaning ascribed to it by K.S.A. 36-501 and amendments thereto.
- O. "Legal Age for Consumption of Cereal Malt Beverage" means 21 years of age.
- P. "Licensee" means any Person to whom a current Club, Drinking Establishment, or Caterer's license or Temporary Permit has been issued pursuant to this title and/or any Person to whom a current Club, Drinking Establishment, or Caterer's license, or Temporary Permit has been issued.
- Q. "Mini-bar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.
- R. "Minor" means any Person under 21 years of age.
- S. "Morals Charge" means a charge involving prostitution; procuring any Person; soliciting a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; a crime against nature; or lewd and lascivious behavior.
- T. "Off-premises Business" means a business establishment which sells Cereal Malt Beverages or Alcoholic Liquor in original unopened containers for consumption off of the license Premises.

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- U. "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 or Cereal Malt Beverage to contain and to convey any Alcoholic Liquor or Cereal Malt Beverage.
- V. "Person" means any natural person, partnership, corporation, firm, association, trust, or limited liability partnership or corporation.
- W. "Premises" means the specific area described in the license application and approved as the location upon which the Cereal Malt Beverages and/or Alcoholic Liquor may be sold and/or consumed under the license.
- X. "Retailer" means any Person who sells at retail or offers for sale at retail, Alcoholic Liquors in the Original Package for consumption off the Premises.
- Y. "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.
- Z. "Temporary Permit" shall have the meaning ascribed to it by K.S.A. 41-2601 and amendments thereto.
- AA. "To Sell" includes to solicit or receive an order for, to keep or expose for sale and keep with intent to sell.
- BB. "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.
- CC. "Wholesaler" means a distributor as defined by K.S.A. 41-2701 and amendments thereto. (History: Ord. CDC-2875 §1, 2010; CDC-2178 §1, 99)

5.20.060 City and State liquor license required.

- A. No Person shall operate a Class A Club, Class B Club, Drinking Establishment, or as a Caterer serving Alcoholic Liquor or pursuant to a Temporary Permit without first having in their possession unexpired, unrevoked licenses to do so issued by the City and the State of Kansas. Licenses shall be required for each Premises where Alcoholic Liquor is served.
- 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. CDC-2875 §2, 2010; CDC-2178 §2, 99; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.065 Biennial license tax.

The biennial license tax authorized by K.S.A. 41-2622 is established and fixed at \$500.00 for all Clubs, Drinking Establishments and Caterers.

(History: Ord. CDC-2875 §3, 2010 (effective 7/1/11); CDC-1716 §1, 91; CDC-1653A §1, 91; CDC-1653 §1, 90; PCT-1453 §1, 87; PCOT-1322 §1, 85; PCOT-441 §1, 67)[Source or prior law: 5.20.010]

5.20.068 License tax for temporary permit holders.

A license tax is established and fixed at \$75 for each three-day temporary permit issued. The tax shall be prorated for each day of the three-day permit period used by the permit holder.

(History: Ord. CDC-2178 §3, 99; CDC-1716 §2, 91)

5.20.070 Levy and Term.

- A. For all licenses other than Temporary Permits, the license tax shall be levied on the basis of a two year term and licenses shall be issued for a two year term.
- B. Licensees that hold multiple licenses and who choose to consolidate all their licenses into the same license year as authorized by the Kansas Department of Revenue, in addition to notifying the Alcohol Beverage Control licensing unit in writing, will serve a copy of their written notice upon the City Clerk and, at their next license renewal, must file applications for all licenses and permits held by the entity. Upon issuance of the new state licenses and the surrender of the un-expired City licenses, the City Clerk shall issue new licenses to coincide with the surrender of the un-expired City license and the Licensee will receive a refund for the unused portion of the license tax upon written request to the City Clerk.
- C. A license tax may be transferred during the two year term if the Licensee changes the status of the Premises from Drinking Establishment to private Club or private Club to Drinking Establishment, provided a ten dollar transfer fee shall be charged.
- D. At the option of the applicant or Licensee, the applicant or Licensee shall submit to the City Clerk either:
 - 1. the full amount of the license tax set forth in Section 5.20.065; or
 - 2. one-half of the full amount of the license tax set forth in Section 5.20.065.
- E. If the applicant or Licensee elects to pay only one-half of the license tax pursuant to Subsection D(2), the remaining one-half of the license tax plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The City Clerk may, at the Clerk's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due. When the Licensee pays the full amount of the license fee upon application and is prevented from operating under such license for reasons other than suspension or revocation of the license for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such Licensee.

- F. There shall be no refund of the license tax when Licensees quit business prior to the end of the license year, or 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 tax 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.
- G. Payment of all taxes and/or 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. CDC-2875 §4, 2010 (effective 7/1/11); CDC-2840 §1, 2009; CDC-2178 §4, 99; CDC-1716 §3, 91; CDC-1653A §1, 91; CDC-1653 §1, 90; PCT-1453A §1, 87; PCT-1453 §2, 87; PCOT-1322 §2, 85; PCOT-441 §2, 67)[Source or prior law: 5.20.020]

5.20.075 License exclusive to Premises issued.

- A. The license provided herein shall be issued for one particular Premises which shall be stated in the application and in the license. No license shall be issued for a Premises wherein the use thereof would be in violation of the City zoning laws or the City building codes or fire codes. Nothing in this Section shall be construed to require a fixed Premises for Persons licensed as a Caterer pursuant to Article 26 of Chapter 41 of Kansas Statutes Annotated.
- B. Any licensed Premises which includes the exterior of a building and/or an outdoor area must be adequately lighted during all business hours.
- C. Any licensed Premises which includes the exterior of a building or an outside area must be enclosed by a fence in such a way as to allow access only through the interior of the building or through an official gate or entrance. All gates or entrances to an outdoor area must be continuously manned by security personnel to insure no Alcoholic Liquor is removed from the Premises. Outdoor areas shall not include parking areas or sidewalks, provided the City Clerk may, upon proper application of the Licensee, authorize the extension of the licensed Premises to include parking or sidewalk areas for special events; provided, approval of such application is conditioned on the applicant applying for and receiving a special event permit. During such periods, the area of the extended Premises shall no longer be designated or used as a sidewalk or parking area.
- D. Licensees desiring to extend their licensed Premises to include parking and sidewalk areas for a special event must apply in writing to the City Clerk for such authorization. Applications must include written authorization from the Alcohol Beverage Control Division of the Kansas Department of Revenue to extend the licensed Premises for the special event. Applications must also include a diagram accurately describing the licensed Premises for the special event, the dates of the special event and the security measures to be implemented during the event. If parking areas are included in the extended Premises, the applicant must indicate how parking requirements will be

satisfied during the event. Applications shall be reviewed by the Chief of Police to insure the Licensee has planned for and has available the necessary security resources and otherwise is capable of meeting the ordinance requirements for the sale of intoxicating liquor in exterior areas. The Chief of Police will submit to the City Clerk in writing his/her review of the application which shall include any comments concerning public safety issues.

- E. Licensed Caterers desiring to cater an event on public property at which intoxicating liquor is sold, served, dispensed and consumed must apply in writing to the City Clerk for such authorization. Applications must include a diagram accurately describing the public property for the catered event, the dates of the event and the security measures to be implemented during the event. The security measures for the event must minimally include the enclosure of the area where intoxicating liquor is to be sold, served, dispensed or consumed by a fence in such a way as to allow access only through an official gate or entrance. All gates or entrances must be continuously manned by security personnel to insure no Alcoholic Liquor is removed from the area designated for consumption. If parking areas are included in the area designated for consumption, the applicant must clearly indicate how parking needs will be satisfied during the catered event. All applications shall be reviewed by the Chief of Police to insure the licensed Caterer has planned for and has available the necessary security resources. The Chief of Police shall submit to the City Clerk in writing his/her review of the application which shall include all comments concerning public safety issues.

(History: Ord. CDC-2875 §5, 2010; CDC-2178 §5, 99; CDC-2047 §1, 97; CDC-2043 §1, 97; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.078 Temporary Permits; Applications; Process.

It shall be unlawful for any Person to conduct an event pursuant to a State issued Temporary Permit without first applying for a local Temporary Permit at least fourteen (14) days prior to the event and subsequently obtaining the permit. Those applications received after the fourteen day period shall be processed, however, review shall be subject to City Clerk calendar considerations. Written application for the local Temporary Permit shall be made to the City Clerk upon a form provided by the Clerk and shall clearly state the name of the applicant, the group for which the event is planned, the location, date and time of the event and any anticipated need for police, fire or other municipal services. If the event is to occur on private property, the applicant shall include written permission for the event and the service of alcohol from the owner of the private property. In addition, the application shall include a copy of the State issued Temporary Permit. Upon presentation of a State Temporary Permit, a written application and any necessary accompanying documents, payment of the license tax set forth in O.P.M.C. 5.20.068, and the recommendations of the Chief of Police, the City Clerk shall issue or deny the permit. 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.

(History: Ord. CDC-2875 §6, 2010; CDC-2178 §6, 99)

5.20.080 Application for license; investigation of applicant by Chief of Police.

Any Person desiring to secure a Drinking Establishment, Club or Caterer's license under the provisions of this Chapter shall make a verified application with the City Clerk. Such application shall be upon a form provided by the City Clerk and shall require the applicant to provide the information necessary to determine whether the applicant is qualified and eligible to be issued a license pursuant to this Chapter, to include the qualifications required by the State of Kansas for issuance of a state Drinking Establishment, Club or Caterers license. One copy of such application shall immediately be transmitted by the City Clerk to the Chief of Police for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such applicant to determine whether they are qualified as a Licensee under the provisions of this Chapter. The Chief of Police shall report to the City Clerk not later than ten working days subsequent to the receipt of such application by the City Clerk. The City Clerk shall issue a license or deny the application within ten business days after receipt of the report of the Chief of Police.

(History: Ord. CDC-2875 §7, 2010; CDC-2178 §7, 99; CDC-2102 §1, 98; CDC-1963 §1, 95; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.085 Qualifications for license.

No license shall be issued under the provisions of this chapter to an applicant for a club, drinking establishment or caterer's license or for a temporary permit unless the applicant meets the State of Kansas qualifications for a club, drinking establishment, or caterer's license or temporary permit as set forth in Chapter 41 of the Kansas Statutes Annotated.

(History: Ord. CDC-2178 §8, 99; CDC-1963 §2, 95; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.090 Examination of application - Issuance of license - Disqualifications.

- A. If the application is in proper form and accompanied by the license tax, the City Clerk shall examine the application; and after such examination, the City Clerk shall issue the license, if the applicant is qualified as provided by law, provided that no license shall be approved to any Person who is not otherwise qualified and eligible to receive a license pursuant to Section 5.20.085, or to an applicant or Licensee that is indebted to the City.
- B. 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 term for which it is issued. The license shall be kept posted in a conspicuous place in the place of business licensed.
- C. Renewal licenses may be issued by the City Clerk upon payment of the necessary tax if the Licensee has not been suspended or revoked pursuant to Section 5.20.115 or 5.20.120 during the license term and the Licensee continues to meet the qualifications for issuance of the license.

- D. If an application for a license is refused, the license tax 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. CDC-2875 §8, 2010; CDC-2178 §9, 99; CDC-2102 §2, 98; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.095 Compliance.

It is unlawful for a licensee to:

- A. Employ any person under the age of 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor;
- B. Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in the court of this city, or of this state or any other state, or of the United States; provided that the term "conviction" shall include being placed on diversion;
- C. Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty on a violation of any intoxicating liquor law of this or any other municipality, this or any other state, or of the United States or been placed on diversion on a violation of the driving under the influence laws of this or any other municipality, this or any other state or of the United States during the two-year period immediately following such adjudging;
- D. In the case of a club, fail to maintain at the licensed premises a current list of all club members and their residences addresses or refuse to allow the City Attorney or any of his authorized agents or any law enforcement officer to inspect such list;
- E. Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder;
- F. Permit any employee of the licensee or permit holder who is under the age of 21 years of age to work on the premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over;

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- G. Employ any person under the age of 18 years of age in connection with the serving of alcoholic liquor.

(History: Ord. CDC-2178 §10, 99; CDC-2102 §3, 98; CDC-1963 §3, 95; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.100 Hours of closing.

- A. No private club, drinking establishment, or temporary permit holder licensed under the provisions of K.S.A. 41-2601, *et seq.*, shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day. In addition, no caterer shall allow the serving, mixing, or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day at an event catered by such caterer.
- B. A hotel of which the entire premises are licensed as a drinking establishment or a drinking establishment/caterer may at any time allow the serving, mixing and consumption of alcoholic liquor and cereal malt beverage from a mini-bar in a guest room by guests registered to stay in such room, and guests of guests registered to stay in such room.

(History: Ord. CDC-2178 §11, 99; CDC-2011 §1, 96; CDC-1813 §1, 93; CDC-1653A §1, 91; CDC-1653 §1, 90; PCT-1453 §3, 87; PCOT-1322 §3, 85; AL-859 §1, 75) [Source or prior law: 5.20.030]

5.20.105 Permitting consumption by Minors; exceptions; penalties.

- A. No Licensee or permit holder, or any owner, officer or Employee thereof, shall knowingly or unknowingly permit the possession or consumption of Alcoholic Liquor or Cereal Malt Beverage by a Minor on Premises where alcoholic beverages are sold by such Licensee or permit holder, except that a Licensee's or permit holder's Employee who is not less than 18 years of age may serve Alcoholic Liquor or Cereal Malt Beverage under the on-premises supervision of the Licensee or permit holder, or an Employee who is 21 years of age.
- B. Violation of this Section is a misdemeanor punishable by a fine of not less than \$100.00 and not more than \$250.00 or imprisonment not exceeding 30 days, or both.
- C. It shall be a defense to a prosecution under this Section if:
1. The defendant permitted the Minor to possess or consume the Alcoholic Liquor or Cereal Malt Beverage with reasonable cause to believe that the Minor was 21 or more years of age; and
 2. to possess or consume the Alcoholic Liquor or Cereal Malt Beverage, the Minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, that reasonably appears to contain a photograph of the Minor and purporting to establish that such Minor was 21 or more years of age.

(History: Ord. CDC-2875 §9, 2010; CDC-2178 §12, 99; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.110 Nudity or Semi-nudity Prohibited - Standards of conduct for entertainment.

Repealed.

(History: Ord. CDC-2029 §1, 97; Ord. CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.115 Revocation of license.

- A. The City Clerk shall immediately revoke the license of any Licensee whenever the state license of the Licensee is revoked by the state for any reason.
- B. The Governing Body, upon five days' written notice to a Person holding a license To Sell Alcoholic Liquor, after conducting a hearing, may assess a fine not to exceed \$500.00, may assess such fine and/or suspension for a period not to exceed 90 days or may revoke such license for any of the following reasons:
 - 1. If the Licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon;
 - 2. If the Licensee, manager, Employee or agent has violated any of the provisions of this Chapter or any rule or regulation by the Governing Body of the City concerning Alcoholic Liquor;
 - 3. If the Licensee has become ineligible to obtain a license or permit under this title;
 - 4. Drunkenness of a Person holding such license, drunkenness of Licensee's manager or Employee while on the Premises for which said license is issued, or for a Licensee, whose manager or Employee permits any intoxicated Person to remain in such place selling Alcoholic Liquor;
 - 5. The sale or gift of Cereal Malt Beverage or Alcoholic Liquor to a Minor by a Licensee, his manager or Employee;
 - 6. The nonpayment of any license tax payable pursuant to this Chapter;
 - 7. For a Licensee, his manager or Employee to permit gambling in or upon Premises selling Alcoholic Liquor;
 - 8. If the Licensee or his manager or Employee, has knowingly permitted any disorderly Person to remain on Premises where Alcoholic Liquor is sold by such Licensee;
 - 9. If there has been a violation of a provision of the laws of this City or of this state or of any other state or 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;
 - 10. If the Licensee or his manager or any Employee has purchased or displayed, on Premises where Alcoholic Liquor is sold by such Licensee, a federal waging occupational stamp issued by the United States Treasury Department;
 - 11. If the Licensee or his manager or any Employee, has purchased and displayed, on Premises where Alcoholic Liquor is sold by such Licensee, a federal coin-operated gambling device stamp for the Premises issued by the United States Treasury Department;

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12. If the Licensee holds a license as a Class B Club, Drinking Establishment or Caterer and has been found guilty of a violation of Article 10 of Chapter 44 of the Kansas Statutes Annotated under a decision or order of the Civil Rights Commission which has become final or such Licensee has been found guilty of a violation of K.S.A. 21-4003 and amendments thereto;
 13. For employing a Person who has been adjudged guilty of a felony, a violation of an offense involving a Morals Charge, or a violation of intoxicating liquor or drug law. The Chief of Police may require any Employee of a Licensee to submit to fingerprinting to determine if a violation of this Section has occurred, and the failure of an Employee to submit to fingerprinting if required by the Chief of Police shall be prima facie evidence that the Employee is ineligible for employment under the provisions of this Section;
 14. For failure to maintain sufficient records to determine the percentage of gross business obtained from the sale of Cereal Malt Beverages or Alcoholic Liquor;
 15. For failure to permit the inspection of such records at all times during business hours by proper agents of the City;
 16. For knowingly allowing or permitting any known felon to loiter upon or about the licensed Premises;
 17. For knowingly selling or providing Alcoholic Liquor to any Person who is intoxicated;
 18. Failure to pay a fine assessed by the Governing Body within 30 days of the date such fine was imposed;
 19. Violation of any provisions of K.S.A. 41-2601 *et seq.*
- C. If any of the grounds for revocation enumerated in Subsection (B) of this Section are violated by an Employee or manager, then in the absence of proof of knowledge by the Licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty days. In any event if any Licensee is subject to more than two such suspensions in any twelve-month period, the Licensee's license may be revoked on the third such violation.
- D. Within 20 days after the order of the Governing Body or the City Clerk revoking or suspending any license, the Licensee may appeal from such order to the district court of the county in the manner as provided by law; provided that any appeal taken from an order revoking or suspending any such license shall not suspend the order during the pendency of such appeal. In case of the revocation of a license of any Licensee, no new license shall be issued to such Person or to any Person acting for or on his behalf, for a period of six months after the revocation becomes effective.

(History: Ord. CDC-2875 §10, 2010; CDC-2178 §13, 99; CDC-2102 §4, 98; CDC-1963 §4, 95; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.120 Suspension of license by Chief of Police.

A. The Chief of Police, upon five days' written notice, and subsequent to conduct of a hearing shall have the authority to suspend such license for a period not to exceed 30 days for any of the reasons set forth at Section 5.20.115B (2), (4), (5), (7), (8), (9), (16), (17) and (18), which reason does not, in the judgment of the Chief of Police, justify a recommendation of revocation; provided, however, that the licensee may appeal such order of suspension to the Governing Body within seven days from the date. In the event such order of suspension is upheld by the Governing Body, the licensee may appeal to the district court of the county in the manner provided by law. Any appeal taken from an order of the Chief of Police shall stay the order of suspension until the matter is resolved by the Governing Body. Any appeal to the district court shall not stay the order of the Governing Body.

B. The Chief of Police shall notify the City Manager and City Clerk prior to making a suspension hereunder.

(History: Ord. CDC-2178 §14, 99; CDC-2102 §5, 98; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.125 Display of license.

Every licensee shall cause the issued license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(History: Ord. CDC-2178 §15, 99; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.130 Right of entry and inspection.

The right of immediate entry to and inspection of any premises where alcoholic liquor is sold by a licensee or holder of a temporary permit, or any premises subject to the control of any licensee or temporary permit holder, at any time by any duly authorized officer or agent of the City, or by any law enforcement officer, shall be a condition on which every license or temporary permit is issued, and the application for and acceptance of any license or temporary permit shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such immediate entry and inspection. Such consent shall not be revocable during term of the license or temporary permit. Refusal of such entry shall be grounds for revocation of the license or temporary permit. Upon the refusal of any licensee to permit immediate entry and inspection as said above, the city attorney shall report such refusal to the State Director of Alcoholic Beverage Control.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.135 Caterer and temporary permit holder notification.

Prior to any event at which a caterer or temporary permit holder will sell liquor by the individual drink, the caterer or temporary permit holder shall notify the Chief of Police in writing at least five working days prior to the event where the event shall take place and the estimated number of individuals participating in the event.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90; PCT-1453 §4, 87)[Source or prior law: 5.20.035]

5.20.140 Removal from the licensed premises.

- A. Subject to the rights conferred by subparagraph B, below, no person shall remove any drink of alcoholic liquor from premises licensed as a club or drinking establishment or from a caterer's premises, or from premises licensed pursuant to a temporary permit. Violation of this section by a person is a misdemeanor punishable by a fine not to exceed \$100.
- B. Legal patrons of a class A club, class B club or a drinking establishment may remove from the licensed premises one or more opened containers of alcoholic liquor, subject to the following conditions:
 - 1. It must be legal for the licensee to sell the alcoholic liquor in its original container;
 - 2. the alcoholic liquor must be in its original container;
 - 3. each container of alcoholic liquor must have been purchased by a patron and the alcoholic liquor in each container must have been partially consumed on the licensed premises;
 - 4. the licensee or the licensee's employee must provide the patron with a dated receipt for the unfinished container or containers of alcoholic liquor; and
 - 5. before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must securely reseal each container, place the container in a tamper-proof, transparent bag which is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

(History: Ord. CDC-2629 §1, 2006; CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.145 Member must be present.

A club license shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members, their families and guests accompanying them and to any reciprocal member as provided by Article 26 of Chapter 41 of Kansas Statutes Annotated.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.150 No drinks promotion.

- A. No club, drinking establishment, caterer or holder of a temporary permit nor any person acting as an employee or agent thereof, shall:
 - 1. Offer or serve any free drink of cereal malt beverage or alcoholic liquor in any form to any person;
 - 2. Offer or serve to any person a drink of cereal malt beverage or alcoholic liquor at a price that is less than the acquisition cost of the drink to the licensee or permit holder;
 - 3. Sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

4. Sell, offer to sell or serve any drink of cereal malt beverage or alcoholic liquor to any person at any time at a price less than that charged all other purchasers of drinks on that day;
 5. Increase the volume of alcoholic liquor contained in a drink or the size of a drink or cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day.
 6. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes; or
 7. Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections A(1) through (6);
 8. Sell, offer to sell or serve any drink of alcoholic liquor or cereal malt beverage for consumption off the licensed premises;
 9. Knowingly allow or permit any person to remove a drink of alcoholic liquor from the licensed premises or from the caterer's premises, or from premises licensed pursuant to a temporary permit.
- B. Nothing in subsection A shall be construed to prohibit a club, drinking establishment, caterer or holder of a temporary permit from:
1. Offering free food or entertainment at any time; or
 2. Selling or delivering wine by the bottle or carafe.
- C. Violation of any provision of this section is a misdemeanor and punishable by a fine of not more than \$500 or imprisonment not to exceed six months or by both such fine and imprisonment.
- D. Violation of any provision of this act shall be grounds for license suspension or revocation.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.155 Penalty for violation.

Any person violating any provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 or 30 days in the county jail unless otherwise provided herein.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90)

5.20.160 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.

(History: Ord. CDC-1653A §1, 91; CDC-1653 §1, 90; PCOT-1322 §4, 85)[Source or prior law: 5.20.040]

5.20.165 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. CDC-1653A §1, 91; CDC-1653 §1, 90; PCOT-1322 §5, 85)[Source or prior law: 5.20.050]

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