CHAPTER III. BEVERAGES

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ARTICLE 1. CEREAL MALT BEVERAGES

3-101. DEFINITIONS. For the purpose of this article the following definitions shall apply unless the context otherwise requires:

(a) Cereal malt beverage shall mean any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute but shall not include any such liquor which contains more than 3.2 percent of alcohol by weight.

(b) General retailer shall mean a licensee who has a license as herein required.

(c) Legal Age for Consumption means the minimum age established by the State of Kansas for the lawful consumption of cereal malt beverages, specifically: (a) 19 years of age with respect to persons born before July 1, 1966; and (b) 21 years of age with respect to persons born on or after July 1, 1966.

(d) Limited retailer shall mean a licensee who has a license to sell only at retail cereal malt beverages in original and unbroken case lots, and not for consumption on the premises.

(e) Person shall include individuals, firms, co-partnerships, corporations and associations.

(Ord. 515, Sec. 1; Code 1986)

3-102. 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.

(K.S.A. 41-2702; Ord. 545, Sec. 2; Code 1992)

3-103. APPLICATION. Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

(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 or of the United States;

(f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 8 of this code.

(g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 7 of this code.

(h) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the mayor 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.

(i) At the time application is submitted the applicant must have obtained, at their expense, the criminal history from the KBI for each applicant; partner; firm/association member; manager; agent; officer; director; stockholder owning 25% or more of stock and spouses of the same; or the applicant must pay the City to obtain KBI criminal history report to complete investigation per each applicant; partner; firm/association member; manager; agent; officer; director; stockholder owning 25% or more of stock and spouses of the same.

3-103A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and 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 police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with chapters 7 and 8 of this code. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.

(d) The 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 above city 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.

(Ord. 545, Sec. 2; Code 1992)

3-104. 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.

(Ord. 545, Sec. 2; Code 1992)

3-105. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Ord. 545, Sec. 2; Code 1992)

3-106. 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 Shawnee 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 has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.

(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 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: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(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.
(Ord. 545, Sec. 2; Ord. 613, Sec. 1; Code 2003)

3-107. 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 500 feet of any school or within 100 feet of any church, without the approval of the governing body.

(c) Provisions of this section 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 holding 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. (K.S.A. 41-2704; Ord. 545, Sec. 2; Code 1992)

3-108. 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 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, $50 per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (K.S.A. 41-2702; Ord. 545, Sec. 2; Code 1992)

3-109. SUSPENSION OF LICENSE. The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this 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. (Ord. 545, Sec. 2; Code 1992)

3-110. LICENSE SUSPENSION/REVOCATION BY 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 article or has become ineligible to obtain a license under this article;

(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 is 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 under this article;

(f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;

(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 premise licensed under this article;

(j) The nonpayment of any license fees;

(k) If the licensee has become ineligible to obtain a license under this chapter;

(l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

(m) In addition, the governing body may levy a fine not to exceed $100 for each violation of this section.

(K.S.A. 41-2708; Ord. 545, Sec. 2; Code 1992)

3-111. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Shawnee County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license 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. (K.S.A. 41-2708; Ord. 545, Sec. 2; Code 1992)

3-112. CHANGE OF LOCATION. If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of $25. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 545, Sec. 2; Code 1992)

3-113. 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 under this article 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. (K.S.A. 41-307:307a; Ord. 545, Sec. 2; Code 1992)

3-114. BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(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 police and health officers of the city, county and state.

(c) No cereal malt beverages may be sold or dispensed between the hours of 11:45 p.m. and 6:00 a.m., or consumed between the hours of 12:00 midnight, and 6:00 a.m., on Easter Sunday, or on the first day of the week commonly called Sunday before 12:00 Noon and after 8:00 p.m. (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 the licensed premises).

(d) Cereal malt beverages may be sold on premises to both the acts contained in Article 27 of Chapter 41 of the Kansas Statutes Annotated and the club and drinking establishment act any time when alcoholic liquor is allowed by law to be served on the premises.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

(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 shall employ any person who has been judged guilty of a felony.

(l) Except whereas may be otherwise provided, no cereal malt beverages may be sold or dispensed between the hours of 11:45 p.m. and 6:00 a.m. or consumed between the hours of 12:00 midnight and 6:00 a.m. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
(Ord. 545, Sec. 2; Ord. 593, Sec. 1; Ord. 611, Sec. 1; Code 2003)

3-115. 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 breasts below the top of the areola or any portion of males/females public 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 any 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) of this section.

(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) As used in this section, 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.

(Code 1992)

3-116. SANITARY CONDITIONS REQUIRED. All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee. (Ord. 545, Sec. 2; Code 1992)

3-117. 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 section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.
(Ord. 545, Sec. 2; Code 1992)

ARTICLE 2. BEER GARDEN LICENSE

3-201. PURPOSE. The governing body has deemed it advisable to allow the license limited public sale at retail and consumption on the sale premises of cereal malt beverages in specific areas of public sidewalks, public streets, alleys or any other public place within the city. Such consumption and sale shall be by responsible persons otherwise duly licensed under the Rossville Code, and shall be allowed for limited periods of time, as hereinafter specifically provided. (Ord. 549, Sec. 1)

3-202. BEER GARDEN LICENSE CREATED. There is hereby created a beer garden license, issued at the discretion of the governing body when deemed by the governing body to be in the public interest. (Code 1984)

3-203. BEER GARDEN DESIGNATED. A beer garden license shall designate specifically an area upon public sidewalks, public streets, alleys or other public places within the city to be used for the purpose of the license, which area will hereinafter be referred to as the beer garden. (Ord. 549, Sec. 2)

3-204. SALE AND CONSUMPTION. No cereal malt beverage may be sold at retail or consumed on any public sidewalk, alley or other public place of the city, provided however, that a beer garden licensee may use the beer garden designated on the beer garden license for the purpose of retail sale and consumption of cereal malt beverages on the premises of the beer garden; and provided further:

(a) That such sale and consumption shall be limited to the beer garden; and,

(b) The beer garden licensee also has been issued a current valid cereal malt beverage retailer license of the city pursuant to this chapter and designated the beer garden as the sale premises.
(Ord. 549, Sec. 3)

3-205. SAME; BOUNDARIES. The beer garden shall be contiguous and shall have its boundaries clearly marked. (Ord. 472, Sec. 5)

3-206. DURATION OF LICENSE: NONTRANSFERABLE. (a) The duration of a beer garden license shall not exceed two days.

(b) No beer garden license shall be transferred by the licensee to whom it was originally issued.
(Ord. 725)

3-207. MINORS ON PREMISES. It shall be unlawful for any person under the legal age of consumption to remain on any premises where the sale of cereal malt beverage is licensed for on premises consumption, provided, however that a beer garden licensee may allow persons under the legal age of consumption to remain on the premises designated as the beer garden on the beer garden license provided further that:

(a) Persons under the legal age of consumption are not permitted to purchase and/or consume any cereal malt beverage within the area designated as the beer garden on the beer garden license.

(b) The beer garden licensee shall provide security personnel, at the licensee's own expense, to enforce the provisions of 3-207(a) of this article. (Ord. 549, Sec. 4)

3-208. SANITARY CONDITION REQUIRED. The provisions of section 3-116 of the city code shall not apply to a beer garden licensee provided further that:

(a) The licensee shall furnish, at their own expense, portable toilet facilities for each sex easily accessible to patrons and employee's of the beer garden.

(b) The license application shall state the number and proposed location of the portable toilet facilities required in subsection (a) of this section.

(c) The governing body of the city may request the licensee to provide a greater number of portable toilet facilities stated on the license application, should it deem necessary.
(Ord. 549, Sec. 5)

3-209. RESTRICTION UPON LOCATION. The provisions of section 3-107 of the city code shall not apply to a beer garden licensee which has been submitted and granted by the governing body of the city. (Ord. 549, Sec. 6)

3-210. SEVERABILITY. Nothing contained in this article shall be construed as modifying, amending or repealing by implication any provisions of Chapter 3, Article 1 of this code except as herein specifically provided. (Ord. 472, Sec. 9)

ARTICLE 3. ALCOHOLIC LIQUOR

3-301. DEFINITION. Alcoholic beverage or alcoholic liquor as used in this article includes the varieties of liquor as defined in K.S.A. 41-102, namely alcohol, alcoholic liquor, spirits, wine and beer and every liquid or solid, patented or not, containing alcohol, alcoholic liquor, spirits, wine or beer, and capable of being consumed as a beverage by a human being, but does not include any beer or cereal malt beverage containing not more than three and two-tenths percent of alcohol by weight. (K.S.A. 41-102; Code 1984)

Ref.: K.S.A. 41-208

3-302. OCCUPATION TAX LEVIED. There is hereby levied an annual occupation tax on each retailer of alcoholic liquor, as defined in section 3-301, for consumption off the premises (sales in the original package only) in the amount of $300 in the city, who has a retailer's license issued by the state begun under an

original state license and within 10 days after any renewal of a state license. (Code 1965, 3-101; Code 1984)

3-303. PRESENT STATE LICENSE. The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license. (Code 1965, 3-102; Code 1984)

3-304. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic retailer's occupation tax receipt to be prominently displayed next to or below the state license in a conspicuous place on the licensed premises. (Code 1965, 3-103; Code 1984)

3-305. HOURS OF SALE. (a) No person authorized to sell any alcoholic liquor at retail within the city shall sell any alcoholic liquor before the hour of 9:00 a.m. or after the hour of 11:00 p.m. on any day when the sale of alcoholic liquors are permitted.

(b) No sales of alcoholic liquor shall be permitted on:

(1) Easter Sunday;

(3) Before 12:00 Noon and after 8:00 p.m. on Memorial Day, Independence Day, Labor Day.

(K.S.A. 41-712; Code 1965, 3-104; Ord. 593, Sec. 1; Code 2003)

3-306. PENALTY. Any person, copartnership or association having a state license to retail alcoholic liquor by the package who shall violate any provisions of sections 3-303, 3-304, or 3-305 shall, upon conviction, be fined not more than $100. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues: Provided, that nothing herein shall be construed to prohibit the city from collecting the occupation tax by any procedure authorized by law. (Code 1965, 3-105; Code 1984)

3-307. SALE TO CERTAIN PERSONS FORBIDDEN. No person shall knowingly or unknowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any minor; and no such minor shall represent that he or she is of age for the purpose of asking for, purchasing or receiving alcoholic liquor from any person except in cases authorized by law. No minor shall attempt to purchase or purchase alcoholic liquor from any person. No minor must possess alcoholic liquor. No person over 21 years of age shall purchase alcoholic liquor from any person for, on behalf of or at the request of any minor. Minor as used in this section means any person under 21 years of age. No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is physically or mentally incapacitated by the consumption of such liquor. Any person violating any of the provisions of this section shall, upon conviction thereof, be fined in any sum not exceeding $100, or be imprisoned not to exceed 30 days, or be both so fined and imprisoned. (K.S.A. 41-715; Code 1965, 3-106)

3-308. DRINKING IN PUBLIC PLACES. (a) Except as provided in subsection (b) it shall be unlawful for any person to drink or consume alcoholic liquor upon any public street or highway or thoroughfare; in beer parlors, taverns, pool halls, or places to which the general public has access, whether or not an admission or other fee is charged or collected; upon property owned by the state or any governmental subdivision thereof; or inside vehicles while upon a street, highway or other public thoroughfare.

(b) The provisions of subsection (a) shall not apply to the consumption of alcoholic liquor.

(1) upon real property leased by a city to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto.

(2) upon property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated.
(K.S.A. 41-719; Code 1984)

3-309. OPEN CONTAINER. (a) No person shall transport in any vehicle upon a highway or street any alcoholic liquor unless such liquor is:

(1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;

(2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.

(c) Violation of this section is punishable by a fine of not more than $200 or by imprisonment for not more than six months, or both fine and imprisonment.
(K.S.A. 8-1599; Code 1965, 3-109; Code 1984)

3-310. CONSUMPTION WHILE DRIVING. No person shall consume any alcoholic liquor while operating any vehicle upon any street or highway. Violation of this section is punishable by a fine of not less than $50 or more than $200 or by imprisonment for not more than six months, or both. (K.S.A. 41-2720; Code 1984)

3-311. RESTRICTION ON LOCATION. No person shall operate any business for the sale of alcoholic liquor if the structure in which the business is located is located 200 feet from the nearest property line of any existing hospital, school, church or library. (K.S.A. 41-710; Code 1984)

ARTICLE 4. PRIVATE CLUBS

3-401. STATUTES INCORPORATED BY REFERENCE. The provisions of Article 26, Chapter 41 of the Kansas Statutes Annotated as amended, and such rules and

regulations as may be from time to time adopted by the State Director of Alcoholic Beverage Control, as provided for in the law, are hereby incorporated by reference and made a part of this article, but only to the extent such pertains to Class A clubs, Class B clubs and drinking establishments. (Ord. 539, Sec. 1)

3-402. LICENSE REQUIRED. It shall be unlawful for any person, partnership, business trust or association, or corporation, to operate a Class A club or Class B club or drinking establishment as defined in the law without first having procured a license as hereinafter provided to operate such club. (Ord. 539, Sec. 2)

3-403. OCCUPATION OR LICENSE TAX. There is hereby levied an annual occupation or license tax upon the Class A club in the sum of $100, and upon the Class B club in the sum of $100 and drinking establishment in the amount of $100. The tax shall be paid before business is begun under an original state license and within 10 days after the renewal of a state license. (Ord. 539, Sec. 3)

3-404. LICENSE APPLICATION. A holder of a license for a Class A club, Class B club or drinking establishment in the city issued by the State Director of Alcoholic Beverage Control shall present such license when applying to pay the occupation tax levied in section 3-403 of this article and the tax shall be received and receipt issued for the period covered by the state license by the city clerk, provided that a Class A club, Class B club or drinking establishment holding a current state license on the effective date of Ordinance No. 539 shall make such application and pay such tax upon the next succeeding anniversary of its state license. (Ord. 539, Sec. 4)

3-405. DISPLAY OF LICENSE. Every licensee shall cause the occupation tax receipt to be placed in view next to or below the state license in a conspicuous place on the licensed premises. (Ord. 464, Sec. 5)

3-406. PENALTY. Upon conviction of any provision of this article such person, partnership, business trust or association, or corporation shall be deemed guilty of an offense and sentenced to pay a fine of not to exceed $100 for each day's violation. (Ord. 464, Sec. 6)