

Chapter 600

ALCOHOLIC BEVERAGES

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Editor's Note — Ord. no. 1411 §1, adopted February 18, 2013, repealed ch. 600 and enacted new provisions set out herein. Former ch. 600 derived from CC 1985 §§4-101 — 4-106, 4-108 — 4-110, 4-113, 4-115, 4-201 — 4-212, 4-214, 4-216 — 4-219; ord. no. 839, 3-21-1988; ord. no. 843, 5-16-1988; ord. no. 989, 6-19-1995; ord. no. 1149 §§16 — 17, 8-19-2002; ord. no. 1196 §1, 5-17-2004; ord. no. 1227, 3-20-2006; ord. no. 1353 §1 — 3, 8-16-2010.

ARTICLE I

Cereal Malt Beverages

Section 600.010. Definitions.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

A. As used in this Article, the words and phrases used herein shall have the meanings set forth under State law, as the same exist from time to time, unless the context otherwise requires.

B. As used in this Article, "Enhanced Cereal Malt Beverage" means: (i) "cereal malt beverage" as that term is defined in K.S.A. 41-2701, and amendments thereto, provided such term is expanded to include, (2) beer containing not more than six percent (6%) alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

Section 600.020. License Required of Cereal Malt Beverage Retailers.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

No person shall sell any enhanced cereal malt beverage at retail without first having secured a license from the City for each place of business which such person desires to operate within the corporate limits of the City of Mulvane, Kansas, as herein provided. Any person holding a valid license to sell a cereal malt beverage on April 1, 2019, shall be deemed to hold a cereal malt beverage license for the sale of enhanced cereal malt beverages on such date for the same term of the originally issued license.

Section 600.030. License Tax.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

A. The license tax for the retail sale of enhanced cereal malt beverages (as a general retailer, limited retailer or temporary retailer) shall be as set forth in Section 100.240.

B. The full amount of the license tax shall be required regardless of the time of the year in which the application is made and the licensee shall be authorized to operate under the license for only the remainder of the calendar year in which the license is issued.

Section 600.040. Application for Licenses.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

Any person desiring to obtain or renew an enhanced cereal malt beverage license shall make an application to the Governing Body of the City and accompany the application by the required license tax for such place of business for which the person desires the license. The application shall be verified, upon a form prepared by the Attorney General of the State of Kansas, as in effect from time to time.

Section 600.050. Examination — Disqualification — Approval.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

Subject to the restrictions, qualifications, and limitations of State law, if the application for license is in proper form and accompanied by the license tax, the Governing Body shall examine the application and shall thereafter issue or renew a license to the applicants qualified at law.

Section 600.060. License Granted.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

The journal of the Governing Body shall show the action taken, and if the license is granted, the action of the Governing Body shall direct the officers charged by law to issue other licenses under the general licensing power of the City to execute the license by order of the Governing Body. The license shall not be transferable. The license shall state that it is not transferable and the calendar year for which issued. The license shall be kept posted in a conspicuous place in the place of business.

Section 600.070. Special Event Permits.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

A. Any person desiring to obtain a special event permit shall make an application to the City Clerk and accompany the application by the required license tax. Upon receipt of a properly completed application and the accompanying tax, the City Administrator or City Clerk may issue a special event permit, which shall allow the holder of such permit to offer for sale, sell and serve enhanced cereal malt beverages for consumption on specified unlicensed premises within the City, provided that:

1. The special event permit specifies the premises for which the permit is issued;
2. The special event permit is issued only for the duration of the special event, the dates and hours of which are specified in the permit;
3. No more than four (4) special event permits are issued to any one (1) applicant in a calendar year; and
4. The special event permit is not to be transferable or assignable.

Any applicant for a special event permit shall pay the City, at the time of application, the required license tax in cash as provided for in Section 100.240 of this Code for each temporary permit issued hereunder. For the purposes of this Chapter, a special event permit shall be considered a "license" and any holder of a special event permit shall be considered a "licensee."

Section 600.080. Suspension or Revocation of License.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

In addition to any and all other penalties imposed hereunder or under State law, the Governing Body of the City may suspend, or revoke an enhanced cereal malt beverage license for any violation of this Chapter, any violation of the Kansas Liquor Control Act, as amended from time to time, and for the reasons set forth, and in the manner provided by State law.

Section 600.090. Wholesaler and/or Distributor.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1512, 2-18-2019]

It shall be unlawful for any wholesaler and/or distributor, his/her or its agents or employees to sell and/or deliver any enhanced cereal malt beverages within this 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 Kansas Department of Revenue.

ARTICLE II

Intoxicating Liquors

Section 600.100. Definitions.

[Ord. No. 1411 §1, 2-18-2013]

As used in this Article, the words and phrases used herein shall have the meanings set forth under State law, as the same exist from time to time, unless the context otherwise requires.

Section 600.110. Licenses Required.

[Ord. No. 1411 §1, 2-18-2013]

A. No person shall maintain a club, farm winery, alcohol manufacturer, microbrewery, microdistillery, drinking establishment, alcohol distributor, retail package alcohol liquor establishment, or otherwise manufacture, offer for sale, sell, or serve alcoholic liquors either in their original package or by the drink without first having secured a valid, unexpired, and unrevoked license therefor from the State Director and, except in the case of a person holding a valid, unexpired and unrevoked caterer's license from the State Director, a valid, unexpired and unrevoked license or permit from the City for each place of business which such person desires to operate within the corporate limits of the City of Mulvane, Kansas.

B. The qualifications, rights, and responsibilities of the licensees under the liquor licenses issued by the City shall be identical to the qualifications, rights, and responsibilities of licensees under licenses issued by the State Director.

Section 600.120. License Tax.

[Ord. No. 1411 §1, 2-18-2013]

A. A biennial license tax is hereby levied upon all persons making application for and securing a license required under this Article as set forth in Section 100.240.

B. The full amount of the license tax shall be paid regardless of the time of the year that the application is made and the licensee shall operate under the license for only the remainder of the calendar year plus one (1) additional calendar year for which the license is issued. No, rebate or return of any portion of the license tax shall be made in the event the license is revoked for any cause provided under this Article.

C. No license issued pursuant to this Article is transferable.

Section 600.130. Application for License.

[Ord. No. 1411 §1, 2-18-2013]

A. Any person desiring to secure or renew a license under the provisions of this Article shall make and file a verified application to the Governing Body of the City and shall accompany the application with the required license tax as provided for in Section 100.240 of this Code. A true copy of the application shall be submitted to the Chief of Police, the Director of the City-County Health Department and the City Attorney by the City Clerk for investigation and recommendation to the Governing Body of the City. The application for any license required under this Article shall contain the following information:

1. The name and residence of the applicant.
2. The location of the premises for which the license is desired.
3. A set of fingerprints of the applicant, if required by the Chief of Police.
4. The name of the fee title owner or owners of the premises upon which the place of business is to be located.
5. True copy of the license issued to the applicant by the State Director.

Section 600.140. Examination of Applicant and Application by Governing Body — Issuance or Denial of License.

[Ord. No. 1411 §1, 2-18-2013]

Subject to the restrictions, qualifications, and limitations of State law, if the application for license is in proper form, accompanied by the license tax, and the State Director has issued the applicant the appropriate license under State law, the Governing Body shall examine the application and shall thereafter issue or renew a license to the applicants qualified at law.

Section 600.150. Temporary Permit.

[Ord. No. 1411 §1, 2-18-2013]

The City Administrator or City Clerk may issue a temporary permit, which shall allow the holder of such permit to offer for sale, sell and serve alcoholic liquor for consumption on specified unlicensed premises within the City, if the proposed holder of such permit shall present a valid, unexpired, and unrevoked temporary permit issued by the State Director to such proposed holder and applicable to said unlicensed

premises; provided however, that if said premises includes any City street, alley, road, sidewalk or highway, such proposed temporary permit shall be issued only if approved by the Governing Body. Any applicant for a temporary permit shall pay the City, at the time of application, the required license tax as provided for in Section 100.240 of this Code for each temporary permit issued hereunder. For the purposes of this Chapter, a temporary permit shall be considered a "license" and any holder of a temporary permit shall be considered a "licensee".

Section 600.160. Revocation or Suspension by Governing Body of License — Grounds — Right of Appeal.

[Ord. No. 1411 §1, 2-18-2013]

The Governing Body of the City may suspend or revoke such liquor license for any violation of this Chapter, any violation of the Kansas Liquor Control Act, as amended from time to time, and for any reason set forth in State law.

ARTICLE III

General Provisions

Section 600.170. Compliance With Laws — Prohibited Acts.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1487 § 2, 2-6-2017; Ord. No. 1512, 2-18-2019]

A. Any person holding a license under this Chapter shall at all times comply with all State and local laws, regulations, and rules applicable to such license holder. All restrictions, requirements, and obligations imposed upon an alcoholic beverage license and licensee by State law shall apply to the license granted hereunder and the licensee.

B. The City has expanded the days of sale at retail of enhanced cereal malt beverages and alcoholic liquor pursuant to K.S.A. 41- 2911. Enhanced cereal malt beverages may be sold at retail in the original package within the City on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m., and alcoholic liquor may be sold in the original package within the City on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m., and may be sold on Memorial Day, Independence Day and Labor Day.

Section 600.175. Exemption from K.S.A. 79-41a04(d) Relating To The Local Alcoholic Liquor Fund.

[Ord. No. 30, 1-3-2018]

A. Exemption K.S.A. 79-41a04. The City, by the power vested in it by the Act, hereby elects to exempt itself from, and make inapplicable to it, the provisions of K.S.A. 79-41a04(d) and does hereby provide the following substitute and additional provisions in place thereof:

(d) The City Treasurer upon receipt of any moneys described under this Section, shall deposit the full amount in the City Treasury and shall credit 1/2 of the deposit to the General Fund of the City and 1/2 to a Special Parks and Recreation Fund in the City Treasury. Moneys in such Special Parks and Recreation Fund shall be under the direction and control of the Governing Body of the City and may be expended only for the purchase, establishment,

maintenance or expansion of park and recreational services, programs and facilities.

Section 600.180. Consumption of Alcoholic Liquor and Cereal Malt Beverages Prohibited in Certain Places.

[Ord. No. 1411 §1, 2-18-2013; Ord. No. 1467 § 1, 6-20-2016; Ord. No. 1512, 2-18-2019; Ord. No. 1574, 12-4-2023]

No person shall drink or consume any alcoholic liquor or any cereal malt beverage (including any enhanced cereal malt beverage) on public property within the corporate limits of the City, except: (1) within the Community Room located at 101 E. Main Street (if properly requested, approved and in all respects otherwise properly licensed therefor); (2) within designated areas of the Mulvane Sports Complex (when specifically approved by the Governing Body of the City for designated locations and times in which only cereal malt beverages will be sold and served, said license for which is also specifically approved by the Governing Body of the City); and (3) during "special events" of a specified time, place, and duration, which have the prior approval by the Governing Body of the City. A "special event" request may be approved by the Governing Body of the City by resolution for the specified time, place, and duration of the event specified in the request. Approval by the Governing Body of an enhanced cereal malt beverage special event permit under Section 600.070 or a liquor temporary permit under Section 600.150 shall be deemed to permit such consumption as specified therein.

Section 600.190. Immediate Entry to and Inspection of Premises Condition of License — Revocation for Refusal.

[Ord. No. 1411 §1, 2-18-2013]

Every license granted under this Chapter is conditioned upon the right of any duly authorized officer or agent of the director, the City, or any Law Enforcement Officer to immediate entry to and inspection of any premises licensed under this Chapter, and acceptance of any license shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such right of immediate entry and inspection. Such right of immediate entry and inspection shall be at any time when the premises are occupied and is not limited to hours when the licensed premises is open for business. Such consent shall not be revocable during the term of the license. Refusal of such entry shall be grounds for revocation of the license.

Section 600.200. Severability.

[Ord. No. 1411 §1, 2-18-2013]

If any provisions of this Article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provisions or application and to this end the provisions of this Article are severable.

Section 600.210. Penalties.

[Ord. No. 1411 §1, 2-18-2013]

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be adjudged

guilty of a misdemeanor and punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period not exceeding six (6) months, or both.