

OCA No. \_\_\_\_\_

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ORDINANCE NO. 51-588

AN ORDINANCE AMENDING SECTIONS 4.04.010, 4.04.020, 4.04.040, 4.08.020, 4.08.030, 4.08.040, 4.08.050, 4.08.060, 4.12.020, 4.12.030, 4.12.050, 4.12.110, 4.12.190, 4.16.040, 4.16.050, 4.16.055, 4.16.065, 4.16.070, 4.16.080, 4.16.110, 4.16.120, 4.16.130, 4.16.135, 4.16.150, 4.16.152, 4.16.153, 4.16.154, 4.16.155, 4.16.160, 4.16.165, AND 4.16.180, AND CREATING SECTIONS 4.16.140 AND 4.16.158 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO REGULATION OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE AND CREATION OF A NEW CLASSIFICATION OF DRINKING ESTABLISHMENT LICENSE FOR LARGE CAPACITY VENUES AND REPEALING THE ORIGINALS OF SAID SECTIONS AND SECTION 4.04.046.

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

SECTION 1. Section 4.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this title, have the meanings indicated in this section. Any term used in this title that is not defined herein shall have the same meaning and definition as set forth in K.S.A. Chapter 41 and amendments thereto. Terms defined in Section 4.12.010 of this Code and amendments thereto shall apply to, and in the event of any conflict, shall take precedence over the definitions in this Section for terms used in Chapter 4.12 of this Code.

- (a) *'Alcohol'* means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.
- (b) *'Alcoholic candy'* means the same as defined by K.S.A. 2020 Supp. 41-102 and amendments thereto.
- (c) *'Alcoholic liquor'* means alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.
- (d) *'Barrier'* means any natural or manmade obstruction which precludes direct traffic, between a church or school and a private club, drinking establishment or a place of business at which cereal malt beverages are sold and is of such a character that it completely separates such establishments, including parking facilities. Barriers include, but are not limited to, rivers, railroad tracks, levees, and drainage ditches.
- (e) *'Beer'* 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.
- (f) *'Beneficial interest'* shall not include any interest a person may have as owner, operator, lessee or franchise holder of any licensed hotel or motel on the premises of which a club or drinking establishment is located.

- (g) *'Bus'* means every motor vehicle designed for carrying more than ten passengers and used for transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (h) *'Caterer'* means an individual, partnership or corporation that sells alcoholic liquor or cereal malt beverage by the individual drink or domestic beer, and provides services related to the serving thereof, on unlicensed premises that may be open to the public, but does not include a holder of a temporary permit or a special event retailer's permit, selling alcoholic liquor or cereal malt beverage in accordance with the terms of such permit.
- (i) *'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. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.
- (j) *'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, as provided in K.S.A. 41-2637 and amendments thereto.
- (k) *'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.
- (l) *'Club'* means a Class A or Class B club.

- (m) *'Common Consumption area'* means a defined indoor or outdoor area which is not otherwise licensed by the Kansas Liquor Control Act or the Club and Drinking Establishment Act where the possession and consumption of alcoholic liquor or cereal malt beverage is allowed pursuant to a common consumption area permit.
- (n) *'Crime of moral turpitude'* means a crime involving dishonesty.
- (o) *'Director'* means the Director of Alcoholic Beverage Control of the Kansas State Department of Revenue.
- (p) *'Distributor'* shall have the meaning ascribed to it by K.S.A. 41-102 and amendments thereto.
- (q) *'Domestic beer'* means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.
- (r) *'Drinking establishment'* means premises which may be open to the general public over 21 years of age, where alcoholic liquor or cereal malt beverage by the individual drink is sold.
- (s) *'Drinking establishment/restaurant'* means premises which may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold and which derive not less than 30% of its gross revenues from sales of food and beverages for consumption on such premises in a two-month period. Failure on the part of the licensee to meet the 30% food sales criteria, or conviction of the licensee or any owner, officer, or employee of the licensee of any two violations of Section 4.16.130 of the City Code occurring on the licensed premises within one year shall result in the premises being reclassified as a

drinking establishment as provided in Section 4.16.095(c) and any amendments thereto.

- (t) *'Drinking establishment/large capacity venue'* means premises which may be open to the general public where alcoholic liquor and cereal malt beverage by the individual drink is sold and which:
  - (1) Offers entertainment, as that term is defined in Section 4.16.140 of the City Code and amendments thereto;
  - (2) Has an approved capacity of 850 or more persons; and
  - (3) Meets all other conditions for such a license as set forth in Section 4.16.140 of the City Code and amendments thereto.
- (u) *'Employee'* means any person employed by a licensee in the business of selling cereal malt beverages or alcoholic liquor.
- (v) *'Food'* means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.
- (w) *'Gross revenues'* means only that income derived from cereal malt beverages, alcoholic liquor, and other food consumables.
- (x) *'Guest or Guests'* means a person or persons to whom a private or personal invitation, as opposed to a public announcement, has been extended for hospitality or entertainment. Paying customers or patrons of any kind of business establishment are not "guests" as the term is used in Section 4.04.040(d) of this code.
- (y) *'Hotel'* has the meaning ascribed to it by K.S.A. 36-501 and amendments thereto.

- (z) *'Individual drink'* means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than:
- (1) Eight ounces of wine; (2) 32 ounces of beer or cereal malt beverage; or
  - (3) four ounces of a single spirit or a combination of spirits.
- (aa) *'Legal age for consumption of cereal malt beverage'* means 21 years of age, except that 'legal age for consumption of cereal malt beverage' shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.
- (bb) *'Licensee'* means any person to whom a current license, temporary permit or special event retailer's permit has been issued pursuant to this title authorizing sale of cereal malt beverages and/or alcoholic liquor. This term shall also mean any person to whom a current license or temporary permit has been issued by the Director of Alcoholic Beverage Control pursuant to the Liquor Control Act or the Club and Drinking Establishment Act of the state of Kansas.
- (cc) *'Manager'* means the manager or assistant manager, or both, of any establishment licensed under this Title who is in charge of the daily operations of the establishment. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

- (dd) *'Manufacture'* means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.
- (ee) *'Manufacturer'* shall have the meaning ascribed to it by K.S.A. 41-102 and amendments thereto.
- (ff) *'Minor'* means any person under 21 years of age.
- (gg) *'Morals charge'* means a charge involving the sale of sexual relations, buying sexual relations, human trafficking, any crime defined in article 55 of Chapter 21 of the Kansas Statutes Annotated and amendments thereto; violation of K.S.A. 21-5604 and amendments thereto; gambling; bigamy; any violation of Chapter 5.26 of the Code of the City of Wichita and amendments thereto; or any crime defined in Article 57 of Chapter 21 of the Kansas Statutes Annotated and amendments thereto.
- (hh) *'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. Original container does not include a sleeve.
- (ii) *'Person'* means any natural person, corporation, partnership, trust or association. As used in Chapter 4.12, *'Person'* means any individual, firm, partnership, corporation or association.
- (jj) *'Powdered alcohol'* means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

- (kk) *'Premises'* means the specific area described in the license or permit 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 or permit.
- (ll) *'Public assembly area'* means the area of the licensed premises to which the general public has access for purposes including, but not limited to, food and drink consumption, entertainment, recreation, social functions or awaiting transportation.
- (mm) *'Retailer'* means a person who is currently licensed under the Kansas Liquor Control Act and sells at retail, or offers for sale at retail, alcoholic liquors, or cereal malt beverages. *'Retailer'* does not include a microbrewery, microdistillery or a farm winery, as those terms are defined in K.S.A. 41-102 and amendments thereto.
- (nn) *'Sale'* means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration; and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.
- (oo) *'Sample'* means a serving of alcoholic liquor which contains not more than:  
(1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain no more than one-half ounce of distilled spirits.
- (pp) *'School'* means the use of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools that have curriculums similar to those in public schools.



- (qq) (1) *'Sell at retail'* and *'sale at retail'* refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.
- (2) *'Sell at retail'* and *'sale at retail'* do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.
- (rr) *'Special event'* means a picnic, bazaar, fair, festival or similar gatherings or events which have been issued a Community Event permit pursuant to Chapter 3.11 of the Code of the City of Wichita, where a temporary permit for the sale of cereal malt beverages or alcoholic liquor is issued pursuant to regulations established by this title, and the Kansas Club and Drinking Establishment Act and amendments thereto.
- (ss) *'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.
- (tt) *'Temporary permit'* shall have the meaning ascribed to it by K.S.A. 41-2601 and amendments thereto.
- (uu) *'To sell'* includes to solicit or receive an order for, to keep or expose for sale and keep with intent to sell.
- (vv) *'Vehicle'* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive

mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

- (ww) *'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 added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.
- (xx) *'Wholesaler'* means a distributor as defined by K.S.A. 41-2701 and amendments thereto.”

SECTION 2. Section 4.04.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Certain sales at retail prohibited, hours of sale, Sunday sales.**

- (a) No alcoholic liquor shall be sold by any person at retail within the corporate limits of the city unless such person shall be licensed therefor by the Kansas Liquor Control Act.
- (b) No person shall sell at retail any alcoholic liquor in the original package within the corporate limits of the city:
  - (1) At or from premises located in areas zoned for more restricted or higher use than “NR” – Neighborhood Retail, under Title 28 of this Code;
  - (2) At or from premises located within 200 feet of any public or parochial school, college or church; provided, that if any school, college or church shall be established within 200 feet of any retail premises licensed under the provisions of the Kansas Liquor Control Act after such premises have been licensed, then such premises shall be an eligible location for retail licensing;

- (3) At or from premises which do not conform to the Wichita-Sedgwick County Uniform Building and Trade Code, that violate the Wichita-Sedgwick County Unified Zoning Code, any city health or fire code, or any of the provisions of this title;
  - (4) On Easter Sunday, Thanksgiving Day and Christmas Day;
  - (5) Before 9 a.m. or after 11 p.m. on any day when the sale of alcoholic liquor at retail is permitted; or
  - (6) On any Sunday other than Easter Sunday before 9 a.m. and not later than 8 p.m.
- (c) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500 or by imprisonment not to exceed six months, or by both such fine and imprisonment.”

SECTION 3. Section 4.04.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Consumption and possession of alcoholic liquor and cereal malt beverages in public places prohibited – Exceptions.**

- (A) It is unlawful for any person within the corporate limits of the city to consume or to have in such person’s possession any open container of alcoholic beverage upon the public streets, alleys, roads, sidewalks or highways, or inside vehicles while upon the public streets, alleys, roads or highways except as follows:

- (1) Alcoholic liquor or cereal malt beverage may be sold and/or consumed at a special event or catered event held on public streets, alleys, roads, sidewalks or highways, provided that:
  - (a) such streets, alleys, roads, sidewalks or highways have been closed to motor vehicle traffic by the City Council, and
  - (b) when any of the following has occurred:
    - (1) a temporary permit for such event has been issued pursuant to K.S.A. 41-1201 and Section 4.16.154 of this Code and amendments thereto;
    - (2) when a caterer's licensee has provided the required notification pursuant to K.S.A. 41-2643 and amendments thereto; or
    - (3) when any business has been authorized to extend its licensed premises into the public street, alley, road, sidewalk or highway pursuant to K.S.A. 41-2608 and amendments thereto and as allowed by Section 4.16.055 of this Code and amendments thereto; and
  - (c) the consumption of alcoholic liquor or cereal malt beverage at such event has been approved by the City Council pursuant to Section 3.11.065 and amendment thereto.
- (2) Alcoholic liquor or cereal malt beverage may be consumed in an area designated as a common consumption area that includes public streets, alleys, roads, sidewalks or highways, provided that:

- (a) such streets, alleys, roads, sidewalks or highways have been closed to motor vehicle traffic by the City Council; and
  - (b) when a common consumption area permit has been issued pursuant to Section 4.08.030 and amendments thereto.
- (3) Cereal malt beverage only may be possessed and/or consumed on any city street closed for a community event licensed pursuant to Chapter 3.11 of this Code where a written request for such consumption and possession and the community event are approved by the City Council.
- (4) No alcoholic beverage may be consumed inside or on motor vehicles while on public streets, alleys, roads or highways at a special event, a catered event or within a common consumption area.
- (5) No person shall remove any alcoholic beverage from inside the boundaries of a special event or a catered event as designated and/or approved by the City Council pursuant to Section 3.11.065 and amendments thereto, or from within an area designated as a common consumption area pursuant to Section 4.08.030 and amendments thereto. The boundaries of a special event, catered event, or common consumption area shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic beverages may be possessed or consumed at such special event or catered event or within such common consumption area.
- (6) No person shall possess or consume alcoholic beverage or cereal malt beverage inside the premises licensed as a special event, the premises of a catered event or within an area designated as a common consumption area

that was not sold or provided by the licensee holding either the special event retailers permit or the temporary permit for such special event, the licensed caterer catering the event, or by an adjacent drinking establishment which has extended its licensed premises into and made a part of the licensed premises for such special event pursuant to K.S.A. 41-1201(f) and amendments thereto and Section 4.16.070 of this Code and amendments thereto, or is participating in a common consumption area pursuant to Section 4.08.030 and amendments thereto.

- (7) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic beverage on the streets or sidewalks within any special event, a catered event, or common consumption area without obtaining the approval of the City Council and any and all necessary state and local permits for the sale or consumption of such alcoholic beverages.
- (8) Each licensee selling alcoholic liquor or cereal malt beverage for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor or cereal malt beverage.
- (9) Any community event which is licensed to allow the sale, possession and/or consumption of alcoholic liquor and/or cereal malt beverage shall comply with the provisions of Section 3.11.065 of this Code and amendments thereto regarding the possession, consumption or sale of such alcoholic liquor and/or cereal malt beverage.

- (10) A person may possess alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highways, or inside vehicles while upon the public streets, alleys, roads or highways when transporting a container of alcoholic liquor or cereal malt beverage from a licensed premises that is securely resealed as allowed by Section 4.16.158 of this Code and amendments thereto.
- (a) As used in this section, “alcoholic beverage” means any alcoholic liquor, as defined by Section 4.04.010(b) of this Code and any amendments thereto, and/or any cereal malt beverage as defined by Section 4.04.040(i) of this Code and any amendments thereto.
- (b) As used in this section, alcoholic beverage will be considered to be in an open container unless in the original and unopened container, or securely resealed as required by Section 4.16.158 of this Code and amendments thereto.
- (c) No person shall consume alcoholic liquor on private property except:
- (1) On premises where the sale of liquor by the individual drink is authorized by this title and by the Club and Drinking Establishment Act of the State of Kansas;
- (2) Upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance

mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto, takes place;

- (3) In a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of such alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto take place;
- (4) In a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place;
- (5) On the premises of an unlicensed business as authorized by K.S.A. 41-719(j) and amendments thereto;
- (6) On the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 41-354, and amendments thereto;
- (7) Any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and



distilled spirit tastings on the licensed premises or adjacent premises, monitored and regulated by the Division of Alcoholic Beverage Control as set forth in K.S.A. 41-308d and Section 4.05.100 of this Code and amendments thereto; and

(8) On premises designated as a common consumption area by the City Council pursuant to Section 4.08.030 and which have a valid common consumption area permit issued by the Director of the Division of Alcoholic Beverage Control.

(d) No person shall consume or to have in such person's possession any open container of alcoholic liquor on public property except:

(1) On real property *leased* by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes incidental thereto.

(2) In any state-owned or operated building or structure and on the surrounding premises, which is furnished to and occupied by any state officer or employee as residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by the Wichita Airport Authority.

(4) On property which has been specifically exempted by ordinance the title of which is vested in the City of Wichita.

- (5) On premises designated as a common consumption area by the City Council pursuant to Section 4.08.030 and amendments thereto, and which have a valid common consumption area permit issued by the Director of the Division of Alcoholic Beverage Control.
- (e) Any property located within the corporate limits of the City of Wichita that is under the control of the Kansas State Board of Regents and the Kansas State Board of Regents has exempted said property from the provisions of K.S.A. 41-719(c) and amendments thereto and said property is not used for classroom instruction.
- (f) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.
- (g) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200 or by imprisonment for not more than six months, or both.”

SECTION 4. Section 4.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permit Application.**

- (A) Any person who desires to hold a permit authorizing the consumption of alcoholic liquor in an area, which is not otherwise subject to a license issued pursuant to the Kansas Liquor Control Act or the Club and Drinking Establishment Act, shall

complete an application upon forms provided by the City Treasurer's Office. Such completed form and all applicable fees shall be filed with the Office of the Manager of Arts & Cultural Services. The applicant shall provide all information requested by such forms and should allow a minimum of thirty (30) days for review of and approval of a properly completed application.

The permit application shall include the following information:

- (1) The name and address of the applicant.
- (2) If a corporation, a copy of the Articles of Incorporation and Bylaws and a list of all directors and officers of the corporation.
- (3) A detailed and legible map of the proposed common consumption area including: location of any physical barriers and/or signage designating the consumption area, entrances and exits, location of attached licensed premises, identification of licensed premises that are adjacent but not to be attached to the proposed common consumption area, the current zoning classification for any proposed common consumption area and approximate location of security personnel.
- (4) A detailed description of security arrangements within the proposed common consumption area.
- (5) A list of dates, days of the week and hours of operation of the proposed common consumption area.
- (6) Documentation showing possession and/or control of the proposed common consumption area, *i.e.*, lease, use agreement or deed.

- (7) The type of alcoholic liquor or cereal malt beverage to be consumed and the means or method which will be used to sell, dispense or distribute alcoholic liquor to be consumed in the proposed common consumption area.
- (8) The identity of the on-site supervisors or managers responsible for the proposed consumption area.
- (9) The name and address of any establishment licensed to sell alcoholic liquor or cereal malt beverage for consumption on the premises thereof, which is adjacent to the proposed common consumption area and which has or will obtain authorization from the Kansas Alcoholic Beverage Control to be attached to the proposed common consumption area.
- (10) The name and address of any licensee who is or will be authorized by the Kansas Alcoholic Beverage control to participate in the proposed common consumption area.
- (11) A list of all public streets, alleys, roads, highways and/or street rights of way to be closed to motor vehicle traffic during the period when consumption of alcoholic liquor or cereal malt beverage is authorized within the proposed common consumption area.
- (12) An insurance certificate of general liability and liquor liability by an insurance company authorized to do business in the State of Kansas, which policy includes the City of Wichita, its officers and agents as named insureds and which provides general liability coverage in an amount not less than \$1 million (\$1,000,000) dollars per occurrence and a minimum

of one hundred thousand (\$100,000) dollars property damage. Proof of insurance shall be submitted to the City prior to issuance of the permit and continued maintenance of this insurance shall be a condition of the permit.

(13) A plan as to how the permit holder will prevent off-premises consumption of alcoholic liquor or cereal malt beverage and the consumption of alcoholic liquor or cereal malt beverage by minors as part of the proposed common consumption area.

(14) A licensing fee of one hundred (\$100) dollars shall accompany all applications.

(B) Upon receipt of the application, application fee and all other necessary documents, the City Treasurer shall forward the application to the following departments for review and comment: Wichita Transit, Wichita Police Department, Wichita Fire Department, Wichita Law Department, Metropolitan Area Planning Department, Metropolitan Area Building & Construction Department and Wichita Parks Department. Such departments shall review the applications and accompanying documents within thirty (30) days of receipt from the City Treasurer's office. The departments shall provide written comments to the Manager of Arts & Cultural Services to be included in final staff recommendations to the City Council for its consideration in approving or denying the request to establish a common consumption area. The Manager of Arts & Cultural Services or designee will assist the applicant with addressing concerns noted by staff following their review.

- (C) Following review of the application by internal staff, the applicant will be notified of the hearing date scheduled before the City Council. The applicant will mail, by first class mail, notification of the public hearing, on a form approved by the City Treasurer, to all owners of record of real property located within two hundred (200) feet of the area proposed for the common consumption area. If the owner of the property is not the applicant, the applicant shall provide written notice to the owner of said property. The written notice required herein shall be placed in the mail with the postmark to be not less than ten (10) days prior to the date of the public hearing. The applicant shall be responsible for all costs associated with such notification required by this section. A certificate of mailing will be filed with the Manager of Arts & Cultural Services at least five (5) days before the council hearing on the application.”

SECTION 5. Section 4.08.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Authorization by City Council.**

- (A) Following the review of the application by city staff, the City Council shall review the application for the designation of a common consumption area and may, by Resolution, authorize the possession and consumption of alcoholic liquor or cereal malt beverage in designated common consumption areas. In determining if approval should be given, the City Council shall consider the following factors:
- (1) The adequacy of security to be provided in the common consumption area.

- (2) The proposed closure of any street, alley or roadway will not cause a significant hardship to pedestrian or vehicle traffic. Alternative routes must be available for public, transit and emergency vehicles.
- (3) The zoning classification for the proposed consumption area and the compatibility of the consumption area with other uses near the location. No common consumption area will be approved within three hundred (300) feet of any residential zoning district, public park, public or parochial school, church or other place of worship unless a conditional use has been granted for such use by the Metropolitan Area Planning Commission or the City Council as applicable.
- (4) No common consumption area will be approved at or on premises located in areas zoned for more restricted uses than LC - Limited Commercial pursuant to the Wichita-Sedgwick County Unified Zoning Code.
- (5) No common consumption area will be approved at or on premises which do not conform to the Wichita-Sedgwick County Unified Building and Trade Code, health, housing or fire codes of the City of Wichita or any provision of the Wichita-Sedgwick County Unified Zoning Code.
- (6) The distance between the proposed common consumption area and other common consumption areas approved by the City.
- (7) Any protests or concerns expressed by neighborhood, businesses, residents or other citizens regarding the proposed common consumption area.
- (8) The city staff's review and comments of the proposed application.

- (9) If the application is for a renewal, the Wichita Police Department, Wichita Fire Department, Metropolitan Area Building & Construction Department and Metropolitan Area Planning Department shall provide the City Council with a report of all calls for service and number of arrests or citations issued for offenses occurring in or upon the designated common consumption area and the areas immediately adjacent to the common consumption area.
- (10) No common consumption permit shall be approved to authorize the consumption of alcoholic liquor or cereal malt beverage prior to 9:00 a.m. or after midnight. The provisions of this section shall not apply to events scheduled between 8:00 a.m. on December 31<sup>st</sup> through midnight on January 1<sup>st</sup> of any year.
- (11) In addition, no common consumption permit shall be issued to:
- (a) A person who has been convicted of or has pled guilty to a felony within the five (5) years preceding the application under the laws of this state or any other state or of the United States;
  - (b) A person who has had a liquor license revoked for cause under the provisions of Article 26 of Chapter 41 of the Kansas Statutes Annotated;
  - (c) A person who has been convicted of being the keeper or is keeping or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual



relations are being sold or offered for sale by a person who is eighteen (18) years of age; or

- (d) A person who has been convicted of or has pled guilty to being a proprietor of a gambling house or of pandering or other crimes or misdemeanors opposed to decency and morality or shall have forfeited bond to appear in court to answer charges for any such violations;
- (e) A person who is not at least twenty-one (21) years of age;
- (f) A person who, other than as a member of the governing body of the City of Wichita or of Sedgwick County, appoints or supervises any law enforcement officer, or who is a law enforcement official.
- (g) A person who intends to carry on the business authorized by the permit as agent of another;
- (h) A person who at the time of application for renewal of any permit issued hereunder would not be eligible for such license upon a first application;
- (i) Any person, if the spouse of such person would be ineligible to receive such a license hereunder for any reason other than citizenship, or age, except that this subsection shall not apply in determining eligibility for a renewal permit or to a person whose spouse is a law enforcement officer;

If the City Council determines that the application for designation of a common consumption permit is to be approved, the City Council will adopt a

Resolution setting forth the area designated as a common consumption area, the times, dates and/or days of the week that consumption of alcoholic liquor or cereal malt beverage may be consumed in such area, a list of all public streets, alleys, roads, highways and right of ways to be closed and providing that all rules and regulations set forth in this chapter are to be complied with by the permit holder. The City Clerk shall provide the applicant a certified copy of the Resolution and submit a copy of the Resolution to the Director of Alcoholic Beverage Control within ten (10) business days of approval by the City Council.

The Resolution approved by the City Council and the permit issued are for a period not to exceed one (1) year. Such permits are not transferrable or assignable.”

SECTION 6. Section 4.08.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Regulations for Common Consumption Areas.**

- (A) In conformance with state law and regulations adopted by the Alcohol Beverage Commission, all common consumption areas must be clearly marked using a physical barrier or a clearly apparent line of demarcation to distinguish the areas where consumption is allowed.
- (B) All alcoholic liquor or cereal malt beverage consumed in a common consumption area is to have distinctively different containers than those in which non-alcoholic drinks are served.
- (C) In approved common consumption areas, alcoholic liquor or cereal malt beverage shall not be served or consumed in glass bottles, glass containers or glass vessels.

- (D) If multiple alcoholic liquor or cereal malt beverage licensees are participating in the common consumption area, each licensee and/or vendor must serve their alcoholic liquor or cereal malt beverage in distinctive containers which identify such vendor or licensee.
- (E) The permit holder shall provide to the City Treasurer a copy of the common consumption permit issued by the Director of Alcoholic Beverage Control within ten (10) business days of issuance of the permit by the Director of Alcoholic Beverage Control. The permit holder shall promptly notify the City Treasurer within five (5) business days of service of any administrative actions or amendments to the common consumption permit issued by the Director of the Alcoholic Beverage Control.
- (F) The permit holder and all adjacent licensees shall comply with all rules and regulations issued by the Director of the Alcoholic Beverage Control relating to the common consumption area.
- (G) All licensees immediately adjacent to or located within a common consumption area, who have requested that the licensee's premises participate in the common consumption area, must request and have received permission to participate in the common consumption area from the Director of Alcoholic Beverage Control. It is the responsibility of the permit holder and approved licensees to provide to the City Treasurer notification of any change, deletion or addition of licensees who are participating in the common consumption area. Such written notification must be received within ten (10) business days of any such change in licensees participating in the area.

- (H) The permit holder shall take all reasonable steps necessary to ensure that no consumption of alcoholic liquor or cereal malt beverage occurs prior to 9:00 a.m. or after midnight in the common consumption area.
- (I) Any licensee participating in a common consumption area shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises.
- (J) The common consumption area permit holder shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor or cereal malt beverage which occur off the premises of licensees who have requested and received permission to participate in a common consumption area but within the common consumption area identified in the permit.
- (K) The common consumption permit holder is responsible for obtaining and placing any barricades necessary for any approved street closure and for removing the barricades promptly after the times approved for such common consumption.
- (L) If the area designated as a common consumption area is to be included within the area approved for a community event, such area must be properly permitted to allow for the sale of alcoholic liquor or cereal malt beverage during such event. The issuance of a community event permit or common consumption permit does not relieve any person from the obligation to obtain any other permit, license or pay any additional fees required by the City of Wichita or other governmental entity or department of the City of Wichita for the temporary sale of alcoholic liquor and/or cereal malt beverage within the designated common consumption area.

- (M) No alcoholic liquor or cereal malt beverage may be consumed inside motor vehicles while on a public street, alley, road or highway within a common consumption area.
- (N) Any public street, alley, road or highway within a common consumption area shall be closed to vehicle traffic during the period of time consumption of alcoholic liquor or cereal malt beverage has been authorized.
- (O) No person shall remove or be allowed by the permit holder to remove any alcoholic beverage or cereal malt beverage from inside the boundaries of a common consumption area.
- (P) No person shall possess, consume or be allowed by the permit holder to possess or consume alcoholic beverages inside the premises designated as a common consumption area that was not sold or provided by a licensee of an adjacent establishment which is participating in the common consumption area or which were not sold or provided by a permit holder with a special event retailers permit, a caterers license or a temporary permit for a special event which includes the common consumption area.
- (Q) No common consumption permit holder shall knowingly or unknowingly:
  - (1) Permit the possession or consumption of alcoholic liquor or cereal malt beverages by a minor on premises subject to a common consumption permit.
  - (2) It shall be a defense to a prosecution of a common consumption permit holder, or any owner, officer, or employee thereof, under Subsection (a) that in order to possess or consume the alcoholic liquor or cereal malt

beverage upon the premises, the minor exhibited to the defendant a driver's license, Kansas non-driver'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 twenty-one (21) or more years of age.

- (3) Violation of this section is a misdemeanor punishable by a fine of not less than one hundred (\$100) dollars and not more than five hundred (\$500) dollars or imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.”

SECTION 7. Section 4.08.050 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Right of Entry and Inspection.**

The right of immediate entry to and inspection of any premises where the common consumption of alcoholic liquor or cereal malt beverage has been allowed by Resolution of the City Council by any duly authorized officer or agent of the city, or by any law enforcement officer, shall be a condition on any permit issued and the application for and acceptance of any permit shall conclusively be deemed to be the consent of the applicant and/or permit holder to such immediate entry and inspection. Such consent shall not be revocable during the term of the permit. Such right of immediate inspection shall be at any time when the premises are occupied and is not limited to hours when common consumption is authorized. Refusal of such entry shall be grounds for revocation of the permit.”

SECTION 8. Section 4.08.060 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Closing Hours.**

Except as otherwise authorized by this Chapter, no common consumption permit holder shall allow the consumption of alcoholic liquor or cereal malt beverage on its premises between the hours of midnight and nine a.m.

At closing time:

- (1) The lights are to be fully illuminated;
- (2) The music, dancing or other live entertainment is to be stopped; and
- (3) All alcoholic liquor and cereal malt beverage is to be removed from all tables and no patron shall be in possession of any alcoholic liquor or cereal malt beverage.”

SECTION 9. Section 4.12.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License required, Special event retailers' permit.**

- (a) It shall be unlawful for any person or cereal malt beverage retailer to sell any cereal malt beverage or beer containing not more than 6% alcohol by volume within the corporate limits of the city without first having obtained a license or permit from the City Treasurer as provided in this chapter. A separate license or permit is required for each place of business. Provided, however, cereal malt beverage may be sold without obtaining a separate license as required in this Chapter by a licensed drinking establishment of any type, a temporary permit holder, a licensed caterer, or a licensed Class A or Class B club, as allowed by K.S.A. 41-1201 and amendment thereto, the Kansas Club and Drinking

Establishment Act and amendments thereto, and Sections 4.16.150, 4.16.152, 4.16.153, 4.16.154 and 4.16.160 of this Code and amendments thereto.

- (b) A special event retailers' permit may be issued which shall allow the permit holder to offer for sale, sell and serve cereal malt beverage or beer containing not more than 6% alcohol by volume for consumption on unlicensed or unpermitted premises, which may be open to the public, subject to the following:
- (1) A special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;
  - (2) No more than four special event retailers' permits shall be issued to the same applicant in a calendar year;
  - (3) The permit holder shall prominently display at each event upon a poster or other device located at the entrance to the permitted premises the special event retailers' permit and the name of the person or agent of the organization holding the permit who is in charge of the event;
  - (4) A special event retailers' permit shall not be transferable or assignable; and
  - (5) A special event retailers' permit holder shall not be subject to the provisions of the Beer and Cereal Malt Beverage Keg Registration Act, K.S.A. 41-2901 et seq. and amendments thereto.”

SECTION 10. Section 4.12.030 of the Code of the City of Wichita is hereby amended to read as follows:

**“Application for license or permit; investigation of applicant by chief of police.**



Any person desiring to secure a cereal malt beverage retailer license or a special event retailers' permit under the provisions of this chapter shall make a verified application. Such application shall be upon a form provided by the City Treasurer and shall contain:

- (a) The name and residence of the applicant.
- (b) The particular place for which a license is desired. If an applicant desires to include as part of the licensed premises any area other than the interior of a building, the applicant shall attach a drawing of the proposed licensed premises to each copy of the application for license under this section.
- (c) The name of the owner of the premises upon which the place of business is located.
- (d) A statement that the applicant is a citizen of the United States and not less than twenty-one years of age and that he 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 driving a motor vehicle under the influence of intoxicating liquor or drugs, or of the violation of any other intoxicating liquor law of any city, state or of the United States, provided that the terms "conviction" and "adjudged guilty" shall include being placed on diversion.
- (e) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.
- (f) Such application shall be accompanied by the license or permit fee provided for by ordinance. It shall be the duty of the chief of police to investigate such applicant to determine whether the applicant is qualified to receive a cereal malt

beverage retailer license or a special event retailers' permit under the provisions of this chapter. The license or permit application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

- (g) License applications must bear a state stamp affixed prior to submission, as provided by K.S.A. 41-2702(e) and any amendments thereto.”

SECTION 11. Section 4.12.050 of the Code of the City of Wichita is hereby amended to read as follows:

**“Examination of applicant by the city council; issuance or denial of license or permit.**

If an application for a cereal malt beverage retailer license or a special event retailers' permit is in proper form and accompanied by the license fee the City Council shall examine the application and, after examination of the application, the City Council, if they approve the same, shall issue a license or permit to the applicant; provided

- (a) That no cereal malt beverage retailer license or a special event retailers' permit shall be issued to:
  - (1) A person who is not of good character and reputation in the community in which the person resides;
  - (2) A person who is not a citizen of the United States;
  - (3) A person who, within two years immediately preceding the date of making application, has been convicted of, released from incarceration for or released from probation or parole for a felony or of any crime involving moral turpitude, drunkenness, or driving a motor vehicle while under the

influence of intoxicating liquor or drugs, violation of any other intoxicating liquor law of any city, state or of the United States;

- (4) A partnership, unless all members of such partnership shall otherwise be qualified to obtain a license;
- (5) A corporation, if any manager, officer or director thereof, and/or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than the citizenship or residency requirements;
- (6) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than the citizenship requirement.
- (7) 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;
- (8) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license;
- (9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this chapter and such felony or other crime was committed during the time that the spouse held a license under this chapter; or

- (10) A person who has failed to pay any outstanding administrative penalty imposed pursuant to Section 4.12.090(c) or Section 4.16.095(d) of the City Code and amendments thereto.
- (b) No license shall be issued for premises wherein the use thereof would be in violation of the city zoning laws or the city building codes or fire codes.
- (c) The denial of a license or permit application shall be subject to the appeal process and provisions set forth in Section 4.12.090(c) and (d), except that the notice of appeal shall include the name and address of the appellant, the date of the license or permit application, the date of the denial of the application or permit and the factual basis for the appeal. The review conducted by the City Council shall be of the facts and circumstances of the license denial.”

SECTION 12: Section 4.12.110 of the Code of the City of Wichita is hereby amended to read as follows:

**“Hours of sale – Prohibited sales.**

- (a) It shall be unlawful for an on-premises retailer or an off-premises retailer to sell cereal malt beverages or beer containing not more than 6% alcohol by volume or to allow the same to be consumed:
  - (1) Before 6:00 a.m. or after 12:00 midnight Monday through Saturday;
  - (2) In the original package not earlier than 9:00 a.m. and not later than 8:00 p.m. on Sunday;
  - (3) On Easter Sunday; or
  - (4) For consumption on the licenses premises on Sunday, except in a place of business which is licensed as an on-premises retailer and which derives

not less than 30% of its gross receipts from the sale of food for consumption on the licenses premises.

- (b) No on-premises retailer, or employee or agent of such retailer, shall:
- (1) Offer or serve any free cereal malt beverage or beer containing not more than 6% alcohol by volume to any person;
  - (2) Offer or serve to any person a drink of cereal malt beverage or beer containing not more than 6% alcohol by volume at a price that is less than the acquisition cost of the drink to the licensee;
  - (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;
  - (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking cereal malt beverage or beer containing not more than 6% alcohol by volume or the awarding of drinks as prizes;
  - (5) Advertise or in any way, whether on or off the licensed premises, any of the practices prohibited under this subsection;
  - (6) Sell, offer to sell or serve any drink of cereal malt beverage or beer containing not more than 6% alcohol by volume for consumption off the premises; or
  - (7) Recklessly allow or permit any person to remove a drink of cereal malt beverage or beer containing not more than 6% alcohol by volume from the licensed premises.
- (c) An on-premises retailer may:

- (1) Offer free food or entertainment at any time;
  - (2) Sell, offer to sell and serve individual drinks at different prices throughout any day; or
  - (3) Sell or serve cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces.
- (d) 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 one year or by both such fine and imprisonment.
- (e) Violation of any provision of this act shall be grounds for suspension or revocation of any license issued pursuant to this Chapter.
- (f) Every licensee subject to the provisions of this section shall make available at any time upon request a price list showing the licensee's current prices for all cereal malt beverages or beer containing not more than 6% alcohol by volume.”

SECTION 13: Section 4.12.190 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**“Possession on unlicensed premises prohibited.**

- (a) No person shall have in such person's possession any alcoholic liquor on premises where cereal malt beverages are sold, except beer containing not more than 6% alcohol by volume other than upon the premises of a club or drinking establishment licensed by this title and by the State of Kansas. Any person violating the provisions of this section shall be punished as set forth in Section 4.12.220.

- (b) Cereal malt beverages may be sold on premises which are licensed for the sale of alcoholic liquor pursuant to both this Title and the Kansas Club and Drinking Establishment Act at any time when alcoholic liquor is allowed by law to be served on such premises.”

SECTION 14. Section 4.16.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Allowing illegal consumption of alcoholic liquor or cereal malt beverage.**

- (a) No person shall allow consumption of alcoholic liquor or cereal malt beverage in violation of this chapter on any property owned, leased or otherwise under such person’s control. Any person allowing such consumption shall thereby subject such person and the property on which such illegal consumption takes place to the penalties provided in this section.
- (b) The person allowing such consumption shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed \$500 or by imprisonment not to exceed six months or by both such fine and imprisonment.
- (c) The property on which the violation takes place is declared to be a common nuisance and as such is subject to abatement as provided for any other common nuisance by city ordinance or as provided in K.S.A. 41-805 and amendments thereto.”

SECTION 15. Section 4.16.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License required – sale of liquor by the drink prohibited.**

- (a) No person shall maintain or operate a drinking establishment, drinking establishment/restaurant, drinking establishment/hotel, drinking establishment/large capacity venue, Class A club, or Class B club within the corporate limits of the City of Wichita without having in such person's possession for the location of the establishment a valid unexpired and unrevoked license issued under the provisions of K.S.A. Chapter 41 and this chapter.
- (b) No person shall act as a caterer within the corporate limits of the City of Wichita without having in such person's possession a valid unexpired and unrevoked license issued under the provisions of K.S.A. Chapter 41 and this chapter.
- (c) No person or organization shall sponsor, conduct or hold an event within the corporate limits of the City of Wichita which requires a temporary permit unless such person or organization has in such person or organization's possession a temporary permit issued under the provisions of K.S.A. Chapter 41 and this chapter.
- (d) Violation of any of the provisions of this section is a misdemeanor and shall be punished as set forth in Section 4.16.190 and amendments thereto."

SECTION 16. 4.16.055 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**“Premises licensed; zoning compliance.**

- (a) Any drinking establishment, drinking establishment/restaurant, drinking establishment/hotel, drinking establishment/large capacity venue, Class A club, or Class B club license issued pursuant to this chapter shall be for one particular



premises that shall be stated in the application and in the license. Not more than one premises licensed under this chapter shall exist at a single legal address.

- (b) No license shall be issued pursuant to this chapter unless a club or drinking establishment of any kind is allowed or provided for at such location by the Wichita/Sedgwick County Unified Zoning Code.
- (c) The licensed premises of a license may be extended into a city street, alley, road, sidewalk or highway if:
  - (1) Such street, alley, road sidewalk or highway is closed to motor vehicle traffic by the City Council at any time during which alcoholic liquor or cereal malt beverage is to be sold or consumed ; and
  - (2) Such extension has been approved by the City Council by ordinance or resolution that specifies the exact times during which alcoholic liquor or cereal malt beverage may be sold or consumed on the street, alley, road sidewalk or highway.”

SECTION 17. Section 4.16.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Term of license.**

- (a) The license required by Section 4.16.050(a) or (b) and amendments thereto shall be issued for a term of two years and shall extend for the time period covered by the state license for the same premises.
- (b) Any city license expiring on the same date as the state license for the same premises shall be renewed and the fees required by Section 4.16.060 and amendments thereto paid no later than 10 business days after any renewal of the

state license and shall remain in effect during this time period. The licensee shall be responsible for submitting an application for renewal of the city license at least 30 days in advance of the renewal date to allow time for the renewal process.

- (c) Any establishment or business that is required to be licensed by the city as set forth in Section 4.16.050 (a) or (b) and amendments thereto must obtain such license and pay the fee required in Section 4.16.060 and amendments thereto before the establishment opens for business under the original state license. Any subsequent renewal of such license shall be subject to the procedures set for in subsection (b) herein.
- (d) Any extension of the effective term of the state license issued for an establishment or business shall extend the term of the city license that is issued pursuant to this chapter for the same premises. The city license shall extend for the same period of time as the state license extension, provided, however, the licensee shall be responsible for providing proof of any extension of the license by the state to the City Treasurer's office."

SECTION 18. Section 4.16.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License exclusive to premises issued.**

- (a) The license provided in this Chapter shall be issued for one particular premises which shall be stated in the application and in the license. No license shall be issued for premises wherein the use thereof would be in violation of any provision of the Wichita-Sedgwick County Uniform Building and Trade Code, the Wichita-Sedgwick County Unified Zoning Code or the Fire Code of the City of Wichita.

Nothing in this section shall be construed to require a fixed premise 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) Except as provided in subsection (e), any licensed premises which includes the exterior of a building must be enclosed by a fence or approved diverters in such a way as to allow access only through a single structure designated as the official gate or entrance.
- (d) Any licensed premises which is an outdoor area must have its boundaries clearly marked or fenced so as to allow access only through an official gate or entrances.
- (e) Any licensed premises of a special event, for which a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, or an extension of the licensed premises pursuant to a sidewalk café permit or Open Air ICT permit shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event or pursuant to a sidewalk care permit or Open Air ICT permit.
- (f) The licensed premises of a drinking establishment that is immediately adjacent to, or located within the licensed premises of a special event, for which the consumption of alcoholic liquor on public property has been approved either by a temporary permit or as a catered event, may be extended into and made a part

of the licensed premises of the special event for the duration of the catered event or the temporary permit issued for such special event.”

SECTION 19. Section 4.16.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Unlawful acts of licensee or permit holder.**

It is unlawful for any licensee or holder of a temporary permit under this chapter to:

- (a) Employ any person under the age of 21 years in connection with the mixing or dispensing of alcoholic liquor or cereal malt beverage;
- (b) Knowingly employ or continue to employ any person in connection with the dispensing or serving of alcoholic liquor or cereal malt beverage or the mixing of drinks containing alcoholic liquor or cereal malt beverage 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;
- (c) Knowingly employ or continue to employ any person in connection with the dispensing or serving of alcoholic liquor or cereal malt beverage, or the mixing of drinks containing alcoholic liquor or cereal malt beverage, who has been adjudged guilty of two or more violations of K.S.A. 21-5607, and amendments thereto, furnishing alcoholic liquor or cereal malt beverage to minors, or a similar law of the City of Wichita, any other municipality, any other state, or of the United States, pertaining to furnishing alcoholic liquor or cereal malt beverage to minors within the immediately preceding five years, or who has been adjudged guilty of

three or more violations of any intoxicating liquor law of the City of Wichita, any other municipality, any other state, or of the United States, not involving the furnishing of alcoholic liquor or cereal malt beverage to minors within the immediately preceding five years;

- (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 Director, any or the Director's authorized agents, the City Attorney, the City Attorney's designee or any law enforcement officer to inspect such list;
- (e) Purchase alcoholic liquor or cereal malt beverage from any person except from a person authorized by law to sell such alcoholic liquor or cereal malt beverage 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 or cereal malt beverage 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;
- (g) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor or cereal malt beverage.”

SECTION 20. Section 4.16.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Right of Entry and Inspection.**

The right of immediate entry to and inspection of any premises where alcoholic liquor or cereal malt beverage 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, by any duly authorized officer or agent of the city, or by any law enforcement officer, shall be a condition on which any 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 permit holder to such immediate entry and inspection. Such consent shall not be revocable during the term of the license or temporary permit. Such right of immediate inspection shall be at any time when the premises are occupied and is not limited to hours when the club or drinking establishment is open for business. Refusal of such entry shall be grounds for revocation of the license or temporary permit.”

SECTION 21. Section 4.16.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Closing Hours and hours of sale.**

- (a) No club, drinking establishment, drinking establishment restaurant or drinking establishment/large capacity venue shall allow the serving, mixing or consumption of alcoholic liquor or cereal malt beverage on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day. At closing time:
- (1) The lights are to be fully illuminated;
  - (2) The music, dancing or other live entertainment is to be stopped;

- (3) All alcoholic liquor or cereal malt beverage is to be removed from all tables and no patron shall be in possession of any alcoholic liquor or cereal malt beverage; and
  - (4) Patrons are to be directed to vacate the premises. No person other than employees of the establishment shall be allowed to remain on the licensed premises more than thirty minutes after closing time.
- (b) No club or drinking establishment licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated shall be open to members and the public between the hours of 2:00 a.m. and 6:00 a.m. on any day except that this subsection shall not apply to restaurants or hotels licensed as drinking establishments.
- (c) No caterer shall allow the serving, mixing or consumption of alcoholic liquor or cereal malt beverage between the hours of 2:00 a.m. and 6:00 a.m. on any day at an event catered by such caterer.
- (d) Subsections (a)(4) and (b) shall not apply to a billiard hall that is licensed as a drinking establishment during any sanctioned billiards tournament occurring on the premises thereof. Patrons and persons other than employees shall be allowed to remain on the premises at all times sanctioned tournament games are being played, but all rules regarding serving, mixing, consumption or possession of alcoholic liquor or cereal malt beverage must be observed between the hours of 2:00 a.m. and 6:00 a.m. during such sanctioned tournaments. Further, the licensee of such billiard hall must provide notice in writing at least 24 hours in advance to

the Wichita Police Department Special Investigations Section of his or her intent to hold such a tournament. Failure to notify the police as required, or remaining open in violation of this section under false pretenses or when no sanctioned pool tournament is being played shall be grounds for suspension or revocation of the establishment's license to sell alcoholic liquor or cereal malt beverage pursuant to 4.16.095 or 4.16.090 and amendments thereto.

For the purpose of this subsection, "billiard hall" shall mean a place of amusement whose chief purpose is providing the use of billiard or pool tables to the public for a fee."

SECTION 22. Section 4.16.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permitting consumption by minors; minors prohibited from entering or remaining in drinking establishments; exceptions; penalties.**

- (a) No licensee, permit holder, or any owner, officer, or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor or cereal malt beverages 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 or older.
- (b) No licensee, owner, officer, or employee of a drinking establishment shall knowingly or unknowingly allow a minor to enter or remain on the premises of



a drinking establishment and no minor shall enter or remain on the premises of a drinking establishment.

- (c) It shall be a defense to a prosecution of a licensee, permit holder, or any owner, officer, or employee thereof, under subsection (a) or (b) if:
  - (1) The defendant allowed the possession or consumption of the alcoholic liquor or cereal malt beverage by the minor or allowed the minor to enter or remain upon the premises of a drinking establishment 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, or to enter or remain upon the premises of a drinking establishment, the minor exhibited to the defendant a driver's license, Kansas non-driver'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.
- (d) Violation of this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500 or imprisonment not exceeding 30 days, or by both such fine and imprisonment.
- (e) Violation of this section by a person 18 or more years of age but less than 21 years of age is a misdemeanor punishable by a fine of not less than \$200 and not more than \$500. In addition to such fine, the court may order the offender to perform 40 hours of public service. Further, any person less than 18 years of age who violates this section is a juvenile offender under the Kansas Juvenile

Offenders Code and upon adjudication thereof shall be required as a condition of disposition to pay the fine or perform the public service, or both, as set forth in herein.

- (f) The provisions of subsection (b) of this section apply only to drinking establishments, as defined in Section 4.04.010 of this Code and amendments thereto but not to drinking establishments also licensed as a microdistillery or a microbrewery by the State of Kansas, or to any other license issued under this chapter. Provided, however, minors will be allowed on the premises of drinking establishments also licensed as a microbrewery by the State of Kansas only when accompanied by the minor's parent or legal guardian and are not allowed on such premises after 10:00 p.m. on any day. Minors will be allowed on the premises of a drinking establishment/large capacity venue as set forth in Section 4.16.140 or this Code and amendments thereto."

SECTION 23. Section 4.16.135 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Removal of alcoholic liquor or cereal malt beverage from licensed premises prohibited; exceptions.**

- (a) No person shall remove any drink of alcoholic liquor or cereal malt beverage 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 one hundred dollars.
- (b) Exceptions. Subsection (a) herein shall not apply to:

- (1) A person who removes alcoholic liquor or cereal malt beverage from premises licensed as a Class A club, Class B club, drinking establishment, drinking establishment/restaurant or drinking establishment/large capacity venue as allowed in Section 4.16.158 and any amendments thereto.
- (2) A person who removes alcoholic liquor or cereal malt beverage from premises of a licensed drinking establishment, which is adjacent to or within the area of a special event when such drinking establishment has properly extended its premises into the premises of a special event that has been appropriately licensed for the sale and/or consumption of alcoholic liquor or cereal malt beverage at such special event and the sale and/or consumption of such alcoholic liquor or cereal malt beverage has been approved by the City Council.”

SECTION 24. Section 4.16.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Class A club license; rights of licensee.**

A license for a Class A club shall allow the licensee to:

- (a) Offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises by members and their families and guests accompanying them and to any reciprocal member as provided by K.S.A. 41-2637, and any amendments thereto; and

- (b) Serve samples of alcoholic liquor or cereal malt beverage free of charge for consumption by members and their families and guests accompanying them and to any reciprocal member as provided by K.S.A. 41-2637 and any amendments thereto. No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.
- (c) A Class A club licensee may also offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by individuals other than members of the licensee, their families or guests during an event, provided that the licensee shall provide electronic notification to the Director at least 48 hours prior to any such event. The notice shall be made available to local law enforcement and shall consist of the date, time, location and the names of the contracting parties of the event. The licensee shall retain all documents regarding the event as required by the Director. For the purposes of this subsection, the term “event” means any function, occasion, celebration or other event held on the licensed premises for a specified duration of time and during which individuals who are not members of the licensee, their families or guests are permitted to enter and use the licensed premises pursuant to an agreement between the licensee and the contracting party.

- (d) A Class A club licensee may allow removal of alcoholic liquor and cereal malt beverage from the licensed premises as allowed by K.S.A. 41-2653 and Section 4.16.158 of this Code and amendments thereto.
- (e) A licensee is further authorized to engage in activities as set forth in K.S.A. 41-2637 and amendments thereto.”

SECTION 25. Section 4.16.152 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Class B club license; rights of licensee.**

A license for a Class B club shall allow the licensee to:

- (a) Offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises by members of such club and guests accompanying members, and to any reciprocal member as provided by K.S.A. 41-2641 and any amendments thereto; and
- (b) Serve samples of alcoholic liquor or cereal malt beverage free of charge on the licensed premises for consumption by such members and their families and guests accompanying them. No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

- (c) A Class B club licensee may allow removal of alcoholic liquor and cereal malt beverage from the licensed premises as allowed by K.S.A. 41-2653 and Section 4.16.158 of this Code and amendments thereto.
- (d) A licensee is further authorized to engage in activities as set forth in K.S.A. 41-2641 and amendments thereto.”

SECTION 26. Section 4.16.153 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Caterers.**

- (a) A caterer’s license shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on unlicensed premises which may be open to the public.
- (b) Every licensee shall cause the caterer’s license to be placed in plain view on any premises within the City where the caterer is serving or mixing alcoholic liquor for consumption on the premises.
- (c) Prior to any event at which a caterer will sell or serve alcoholic liquor or cereal malt beverage by the individual drink, the caterer shall provide electronic notification to the Director at least 48 hours prior to any event at which the caterer will sell alcoholic liquor or cereal malt beverage by the individual drink. The Director shall make electronic notification available to local law enforcement. Notice shall consist of the time, location and the names of the contracting parties of the event. For events where alcoholic liquor or cereal malt beverage is served, a licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts, employees

assigned to the event and records of alcoholic liquor or cereal malt beverage purchased. Notification shall not be required for weddings, funerals, events sponsored by religious institutions, or for business, industry or trade sponsored meetings, including, but not limited to, awards presentations and retirement celebrations.

- (d) A licensee is further authorized to engage in activities as set forth in K.S.A. 41-2643 and amendments thereto.”

SECTION 27. Section 4.16.154 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Temporary permits.**

- (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on unlicensed premises, or on premises that are otherwise subject to a separate temporary permit that may be open to the public, subject to the terms of the permit.
- (b) A temporary permit shall specify the premises for which such permit is issued and shall be issued only for premises as allowed by the Wichita-Sedgwick County Unified Zoning Code.
- (c) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which will be specified in the permit. Not more than four temporary permits may be issued to any one applicant in a calendar year. Provided, however, that, pursuant to K.S.A. 41-1201 and amendments thereto, the director may issue a temporary permit for a special event which, in the director’s discretion, may last no more than 30 days in duration.

- (d) A holder of a temporary permit is further authorized to engage in activities as allowed by Chapter 41, Article 12 of the Kansas Statutes Annotated and amendments thereto, including, but not limited to, providing samples of wine, beer, cereal malt beverage and distilled spirits, sales of alcohol liquor at a charitable auction and sales of one or more limited issue porcelain containers containing alcoholic liquor.”

SECTION 28. Section 4.16.155 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“No drinks promotion, certain sales practices prohibited; penalties.**

- (a) No club, drinking establishment, drinking establishment/restaurant, drinking establishment/hotel, drinking establishment/large capacity venue, 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 an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;
  - (3) Sell, offer to sell or serve to any person an unlimited number of individual 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) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;
  - (5) Sell, offer to sell, or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or
  - (6) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (5);
- (b) A club, drinking establishment, drinking establishment/restaurant, drinking establishment/hotel, caterer or holder of a temporary permit may:
- (1) Offer free food or entertainment at any time;
  - (2) Sell or deliver wine by the bottle or carafe;
  - (3) Sell, offer to sell and serve individual drinks at different prices throughout any day; or
  - (4) Sell or serve beer or cereal malt beverage or mixed alcoholic beverage in a pitcher;
  - (5) Offer samples of alcoholic liquor as authorized by the Kansas Club and Drinking Establishment Act and Section 4.16.160 of this Code and any amendments thereto.
  - (6) A club, drinking establishment, drinking establishment/restaurant, drinking/establishment/ hotel or drinking establishment/large capacity venue may offer customer self-service of beer or wine from automated devices on licensed premises so long as the

licensee monitors and has the ability to control the dispensing of such beer or wine or both from the automated device, and provided that there is compliance with all requirements for the use of such automated device as set forth in K.S.A. 2020 Supp. 41-2640 and any amendment thereto.

(7) A hotel of which the entire premises is licensed as a drinking establishment may distribute coupons to its guests redeemable on the hotel premises for drinks containing alcoholic liquor as allowed and approved by the Kansas Secretary of Revenue.

(8) A hotel of which the entire premises is not licensed as a drinking establishment may distribute coupons to its guests redeemable with one or more clubs or drinking establishments for drinks containing alcoholic liquor as allowed and approved by the Kansas Secretary of Revenue.

(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 suspension or revocation of the retailer's license or the assessment of an administrative penalty not to exceed \$1,000 as provided by this title.

(e) For the purposes of this section:

(1) *'Day'* means from 6:00 a.m. until 2:00 a.m. the following calendar day;

- (2) *‘Mixed alcoholic beverage’* means a beverage that is made by combining alcoholic liquor with a non-alcoholic liquor or other edible substance, including, but not limited to, margarita, sangria, daiquiri or mojito; and
- (3) *‘Pitcher’* means any container that is capable of containing more than 32 fluid ounces but not more than 64 fluid ounces that is used to serve alcoholic liquor or cereal malt beverage to one or more individuals.”

SECTION 29. Section 4.16.160 of the Code of the City of Wichita is hereby amended to read as follows:

**“Drinking establishments and drinking establishment/restaurants – allowing serving of samples.**

Any drinking establishment, drinking establishment/restaurant, and drinking establishment/large capacity venue license shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises which may be open to the public, and to serve samples of alcoholic liquor or cereal malt beverage free of charge on licensed premises. No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

Alcoholic liquor and cereal malt beverage for the sampling as provided in this section shall be withdrawn from the inventory of the licensee. A person other than the licensee or the licensee’s agent or employee may not dispense or participate in the

dispensing of alcoholic beverages under this section, except that the holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages upon a licensee's premises as provided in K.S.A. 41-2656 and amendments thereto.

A drinking establishment licensee of any type is further authorized to engage in activities as set forth in K.S.A. 41-2642 and amendments thereto.”

SECTION 30. Section 4.16.165 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Dispensing and infusing alcoholic liquor.**

- (a) Alcoholic liquor or cereal malt beverage shall be dispensed only from original containers, except any drinking establishment licensee or its agent or employee, may dispense:
  - (1) alcoholic liquor or cereal malt beverage from a machine or container used to mix alcoholic liquor or cereal malt beverage with other liquids or solids intended for human consumption;
  - (2) alcoholic liquor or cereal malt beverage from a machine or container used to chill alcoholic liquor, or cereal malt beverage that may contain additional liquids or solids intended for human consumption; or
  - (3) infused alcoholic liquor or cereal malt beverage from a container used to infuse alcoholic liquor or cereal malt beverage with other substances intended for human consumption.

- (b) A drinking establishment licensee, or its agent or employee, shall not refill any original container with any alcoholic liquor or cereal malt beverage or any other substance.
- (c) Any drinking establishment licensee, or its agent or employee, may infuse alcoholic liquor or cereal malt beverage with spices, herbs, fruits, vegetables, candy or other substances intended for human consumption if no additional fermentation occurs during the process.
- (d) As used in this section:
  - (1) ‘Dispense’ means to portion out servings of alcoholic liquor or cereal malt beverage for consumption. This term shall include the pouring of drinks of alcoholic liquor or cereal malt beverage and opening original containers of alcoholic liquor or cereal malt beverage by the licensee or licensee’s employee for consumption by customers, and shall not include any self-dispensing by a customer.
  - (2) ‘Infuse’ means to add flavor or scent to a liquid by steeping additional ingredients in the liquid.”

SECTION 31. Section 4.16.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Persons and entities ineligible for license.**

- (a) No license shall be issued under the provisions of this chapter to:
  - (1) A person who is not a citizen of the United States;
  - (2) A person who has been convicted of or has pled guilty to a felony under the laws of this state or any other state or of the United States;

- (3) A person who has had a license revoked for cause under the provisions of Article 26 of Chapter 41 of the Kansas Statutes Annotated;
- (4) A person who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
- (5) A person who has been convicted of or has pled guilty to being a proprietor of a gambling house or of pandering or other crimes or misdemeanors opposed to decency and morality or shall have forfeited bond to appear in court to answer charges for any such violations;
- (6) A person who is not at least 21 years of age;
- (7) A person who, other than as a member of the governing body of the City of Wichita or of Sedgwick County, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director, except that the provisions of this subsection shall not apply to prohibit the issuance of a license for a Class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof;
- (8) A person who intends to carry on the business authorized by the license as agent of another;

- (9) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application except as provided by subsection 10;
- (10) Any person if the spouse of such person would be ineligible to receive such a license hereunder for any reason other than citizenship, requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license or to a person whose spouse is a law enforcement officer;
- (11) A person whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time the spouse held a license under this Title, the Kansas Liquor Control Act or the Kansas Club and Drinking Establishment Act;
- (12) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquor or cereal malt beverage or a beneficial interest in any other club, drinking establishment or caterer licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated and this title, except that:
  - (A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotel;

- (B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants;
  - (C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer;
  - (D) A license for a Class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club;
  - (E) Any person who has a beneficial interest in a microbrewery, microdistillery or farm winery licensed pursuant to the Kansas Liquor Control Act may be issued any or all of the following: (1) Class B club license; (2) any drinking establishment license; and (3) caterer's license;
  - (F) Any person who has a beneficial interest in a manufacturer licensed pursuant to the Kansas Liquor Control Act may be issued one drinking establishment license.
- (13) A co-partnership, unless all of the copartners are qualified to obtain a license;
- (14) A corporation, if any officer, manager, or director thereof, or any stockholder owning in the aggregate more than 5% of the common or



preferred stock of such corporation would be ineligible to receive a club license hereunder for any reason other than citizenship and residence requirements;

(15) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation has been an officer, manager or director, or a stockholder owning in the aggregate more than five percent of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act of the State of Kansas,

(B) Has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of the State of Kansas;

(16) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this chapter for any reason, except that the provisions of subsection (6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(17) A person who has failed to pay any outstanding administrative penalty imposed pursuant to Section 4.12.090(c) or Section 4.16.095(d) of the City Code.

(b) No club or drinking establishment license shall be issued under the provisions of this Chapter to:

- (1) A person who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises which is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

SECTION 32. Section 4.16.140 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Drinking Establishment/Large Capacity Venue – Licensing provisions, operating requirements.**

- (a) To obtain a license under the provisions of this Title to operate as a Drinking Establishment/Large Capacity Venue, the premises to be licensed must meet the following requirements:
  - (1) **Capacity.** The premises must have an approved capacity of 850 or more persons.
  - (2) **Entertainment.** The premises must offer entertainment. For the purposes of this license classification, the term ‘Entertainment’ shall mean any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate, or is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing patrons, including and limited to the following:

- (a) Dancing by patrons to live music;
  - (b) The presentation of live music whether amplified or un-amplified;
  - (c) The presentation of music videos, music concerts or other similar forms of musical entertainment from any source; or
  - (d) Any amusement or event such as live music or other live performance including, but not limited to, presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, dance acts, concerts, live bands, or other live music.
- (3) **Permanent Stage.** The premises must have a built-in stage that is at least 200 square feet in size and that is not temporary or movable.
- (4) **Minors on premises.** Patrons who are minors may be allowed on premises licensed as a Drinking Establishment/Large Capacity Venue as follows:
- (a) Patrons between 18 and 21 years of age may remain on the premises from opening time until 12:00 midnight.
  - (b) Patrons under the age of 18 may remain on the premises from opening time until 11:00 p.m. on Sunday through Thursday nights and until 12:00 midnight on Friday and Saturday nights. This ordinance shall apply independently of the time restrictions set in the City's Curfew ordinance as set forth in Section 5.52.010 of this Code.
  - (c) Entertainment or shows extending past 12:00 midnight shall be open only to patrons who are 21 or older.

- (d) The establishment must have a system in place for checking identification of all patrons, visibly identifying patrons who are of drinking age and ensuring that underage consumption of alcoholic liquor is not taking place.
- (5) **Video Surveillance.** The establishment must maintain properly working digital cameras at all times which must be mounted in front of the establishment (both inside and outside), at all entry doors and outside all bathroom doors.
- (6) **Training.** All managers and employees of the establishment must successfully complete the Club Violence Reduction Program (CVRP) training provided by the Wichita Police Department.
- (7) **Crowd Management Measures.** All persons awaiting admission to the premises should be placed in a line, not blocking the sidewalk, and should be informed by employees of the establishment that persons who are not orderly will not be admitted to the premises. Any person not admitted to the premises should be asked to leave the area.
- (8) **Event notification.** When a planned event is expected to have an attendance of 500 or more persons, or when patrons under 21 years of age are to be allowed on the premises, the manager of the establishment must send written or email notification to the Wichita Police Department no later than 10 (ten) calendar days prior to the scheduled event. Such notification shall be made to the Captain of the Bureau in which the licensed premises is located. The notification will include the number of

anticipated attendees as well as the pre-defined security plan that is based upon such number. The Bureau Captain may request modifications to such security plans as may be required to insure the safety of patrons and surrounding businesses.

- (9) **Security.** The establishment must submit pre-defined security plans as a part of the license application. Such plans must be approved by the Wichita Police Department prior to the operation of the establishment as a Drinking Establishment/Large Capacity Venue. Plans will be created based upon anticipated attendance of up to 500 persons, 501 to 1000 persons, and over 1000 persons. The establishment must use a licensed private security company that is bonded and insured. Security guards must be distinctively and uniformly attired for easy identification. Security guards will be spread throughout the establishment and not just at points of entry, and will be required to patrol the exterior and the parking lots of the premises. Security staff ratio to number of patrons will be determined based upon the pre-defined security plans submitted as part of the licensing process.
- (10) **Closing.** Management of the premises, through the use of security staff, must ensure orderliness when patrons are exiting the establishment. This shall include use of security personnel to vacate abutting and adjacent properties, including parking lots.
- (11) **Premises located in Old Town.** An establishment located within the Old Town Entertainment District, as that term is defined in Section 3.30.020 of

this Code and amendments thereto, must also comply with all additional operational requirements for an Old Town Large Assembly Entertainment Establishment, as set forth in Section 3.30.125 of this Code and amendments thereto.

- (b) In addition to the requirements set forth in subsection (a) herein, premises licensed as a Drinking Establishment/Large Capacity Venue shall be subject to all other ordinances that are applicable to all licenses required by Chapter 4.16 of this Code and specifically to drinking establishments as set forth in this Code, except where expressly exempted. These ordinances include, but shall not be limited to, Sections 4.16.055, 4.16.060, 4.16.065, 4.16.068, 4.16.070, 4.16.080, 4.16.085, 4.16.090, 4.16.095, 4.16.100, 4.16.110, 4.16.120, 4.16.130(a)- (e), 4.16.135, 4.16.155, 4.16.160, 4.16.165, 4.16.175, 4.16.180, and 4.16.190, and any amendments thereto.
- (c) Failure on the part of the licensee to meet the requirements for a Drinking Establishment/Large Capacity Venue, or conviction of the licensee or any owner, officer, or employee of the licensee of any two violations of Section 4.16.130 of the City Code occurring on the licensed premises within one year shall result in the premises being reclassified as a drinking establishment as provided in Section 4.16.095(c) and any amendments thereto, and the appeal of any such order will proceed as set forth in Section 4.16.095(d) – (g) and amendments thereto.”

SECTION 33. Section 4.16.158 of the Code of the City of Wichita is hereby created to read as follows:

**“Removal of alcoholic liquor or cereal malt beverage from the premises of a club or drinking establishment.**

- (a) No club, drinking establishment, drinking establishment/restaurant, drinking establishment/hotel, drinking establishment/large capacity venue, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof shall:
- (1) Sell, offer to sell or serve any drink of alcoholic liquor or cereal malt beverage for consumption off of the licensed premises; or
  - (2) Recklessly allow or permit any person to remove a drink of alcoholic liquor from the licensed premises or from the caterer's premises, except as allowed in Subsection 4.16.135 of this Code and any amendments thereto.
  - (3) Violation of any provision of this subsection 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.
- (b) Notwithstanding the provisions in subsection (a), a Class A club license, Class B club license, drinking establishment, drinking establishment/ restaurant or drinking establishment/large capacity venue shall allow the licensee to allow legal patrons of the club or drinking establishment to remove alcoholic liquor or cereal malt beverage from the licensed premises in one or more containers, including in the original unopened container, subject to the following conditions:

- (1) It must be otherwise legal for the licensee to sell the alcoholic liquor or cereal malt beverage;
  - (2) Each container of alcoholic liquor or cereal malt beverage must have been purchased by a patron of the licensed premises;
  - (3) The licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor or cereal malt beverage;
  - (4) Before the container of alcoholic liquor or cereal malt beverage is removed from the licensed premises, the licensee or the licensee's employee must securely reseal any opened container, and place the container in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened;
  - (5) No original unopened containers of spirits may be removed from the licensed premises; and
  - (6) No alcoholic liquor or cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.
- (c) A patron may remove one or more containers of beer, domestic beer, and cereal malt beverage, as those terms are defined in this Title, that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers:
- (1) Contain between 32 and 54 fluid ounces;



- (2) Have a label affixed that clearly indicates the licensee's name and the type of alcoholic beverage contained in such container; and
- (3) Are not sold or removed from the premises after 11:00 p.m.
- (d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt beverage sold by a licensee shall be subject to the tax imposed by K.S.A. 79-41a02 and amendments thereto.

SECTION 34. The originals of Sections 4.04.010, 4.04.020, 4.04.040, 4.04.046, 4.08.020, 4.08.030, 4.08.040, 4.08.050, 4.08.060, 4.12.020, 4.12.030, 4.12.050, 4.12.110, 4.12.190, 4.16.040, 4.16.050, 4.16.055, 4.16.065, 4.16.070, 4.16.080, 4.16.110, 4.16.120, 4.16.130, 4.16.135, 4.16.150, 4.16.152, 4.16.153, 4.16.154, 4.16.155, 4.16.160, 4.16.165, and 4.16.180 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 35. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 13th day of July, 2021.

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Brandon J. Whipple, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
City Attorney and Director of Law