

ORDINANCE NO. 2019-03-4483

AN ORDINANCE AMENDING REGULATION OF CEREAL MALT BEVERAGE/ALCOHOLIC LIQUOR LICENSEES WITHIN THE CITY OF ARKANSAS CITY, KANSAS TO REFLECT CHANGES TO KANSAS LAW; AND AMENDING THE CITY OF ARKANSAS CITY MUNICIPAL CODE TO SO REFLECT.

WHEREAS, Kansas law has been changed to allow sellers of Cereal Malt Beverage to also sell beer containing not more than 6 percent of alcohol; and

WHEREAS, this modification to Kansas law requires the City of Arkansas City to modify its Municipal Code to ensure compliance with Kansas law.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:

Section 1. AMENDMENTS TO MUNICIPAL CODE

(a) Section 6-138 of the Arkansas City Municipal Code is hereby amended to read as follows (new provisions in italics, deleted provisions struck through):

Sec. 6-138. - City occupancy license fee.

- (a) There is hereby levied a biennial occupancy license fee upon each retailer of alcoholic liquor (including beer containing more than ~~6 3-2~~ percent of alcohol by weight), for consumption both on and off the premises.
- (b) The amount of the license fee shall be set by resolution of the board of city commissioners. No license fee shall be refunded for any reason.
- (c) It is unlawful for any person to fail or refuse to pay the occupancy license fee levied hereby.
- (d) Nothing in this chapter shall be construed to prohibit the city from collecting the occupancy license fee by any procedure authorized by law.

(b) Section 6-1 of the Arkansas City Municipal Code is hereby amended to read as follows (new provisions in italics, deleted provisions struck through):

Sec. 6-1. - Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, all terms used in this chapter shall have the meaning ascribed within K.S.A. Article 41, Intoxicating Liquors and Beverages, including but not necessarily limited to K.S.A. 41-102, 41-2601, 41-2701. In addition, the following terms shall be, for the purpose of this chapter, defined as follows:

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Cereal Malt Beverage means cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto, and such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

Drink means one individual serving of any alcoholic liquor or cereal malt beverage.

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Drinking establishment means a location which is open to the public and where alcoholic liquor by the individual drink is sold.

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Employee means any person employed in the business of selling cereal malt beverages or alcoholic liquor by or for a licensee.

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Gross revenues means only that income derived from cereal malt beverages, alcoholic liquor, and other food consumables.

Keg means a reusable container of beer or cereal malt beverage having a liquid capacity of four or more gallons.

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Licensee means any person to whom a current cereal malt beverage license has been issued by the board of city commissioners, authorizing sale of cereal malt beverages and/or any person to whom a current occupancy license or temporary license has been issued pursuant to this chapter and/or any person to whom a current club, drinking establishment, caterer's license, or temporary license has been issued by the director of alcoholic beverage control pursuant to the Kansas Liquor Control Act, K.S.A. 41-101 et seq.

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Premises means the specific area described in the license application and approved as the location upon which the cereal malt beverages and/or alcoholic liquor may be sold and/or consumed under the license.

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Proper proof of identification means a photographic motor vehicle operator's license, a valid passport, a United States military identification card, a state photographic nondriver's identification card or other official or apparently official document, containing a photograph, signature and birth date of the person.

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Sell or sell at retail includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.

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Tavern means any business establishment licensed to sell cereal malt beverages for consumption on the premises that derives in any one month of the calendar year less than 30 percent of its gross revenues from the sale of food for consumption on the premises.

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To sell includes to solicit or receive an order for, to keep or expose for sale and/or keep with intent to sell.

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Section 2: REPEAL

To the extent any provisions of prior ordinances conflict with this Ordinance, the conflicting provisions of prior ordinances are hereby repealed.

Section 3: EFFECTIVE DATE

The City Clerk shall make proper publication of this Ordinance, or a summary thereof, in the official City newspaper, and this Ordinance shall take effect and be in force on April 1, 2019. That the Mayor, City Clerk, and/or City Administration of the City of Arkansas City, Cowley County, Kansas, are authorized and directed to execute any and all documents necessary to consummate the Legislative purposes and intents as expressed herein and if executed by the Mayor (or other person authorized by law to act in the event of the absence or inability of the Mayor to act), the City Clerk is directed to attest to and affix the Official Seal of the City thereon.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, on March 5, 2019.

Jay Warren, Mayor

ATTEST:

Lesley Shook, City Clerk

DRAFTED APPROVED AS TO FORM:

Tamara L. Niles, City Attorney