

ORDINANCE RELATING TO THE REGULATION OF SALE OF CEREAL MALT BEVERAGE; PROVIDING FOR LICENSING OF PERSONS SELLING THE SAME; PRESCRIBING THE RULES AND REGULATIONS GOVERNING THE SALE OF SAME; AND PROVIDING THE PENALTIES FOR THE VIOLATIONS THEREOF.

Be it ordained by the governing body of the City of Westwood Hills:

6-101 DEFINITIONS Section 1. As used in the chapter, the words and phrases herein defined shall have the following meanings, unless the context otherwise requires:

- (a) "Person" shall include individuals, firms, co-partners, corporations and associations.
- (b) "Sale at Retail" and "Retail Sale" shall mean sales for use or consumption and not for resale in any form.
- (c) "Place of Business" shall mean any place at which cereal malt beverages are sold.
- (d) "Cereal Malt Beverage" shall include any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute which contains three and two tenths percent (3.2%) or alcohol by weight or less.
- (e) "Alcoholic Liquor" shall include every liquid, patented or not, containing alcohol spirits, wine or beer and capable of being consumed as a beverage by human beings but shall not include any cereal malt beverage containing 3.2% of alcohol by weight or less.

6-102 SALE WITHOUT LICENSE Section 2. It shall be unlawful for any person to keep for sale, offer for sale, expose for sale, or sell any cereal malt beverage as defined by this chapter without first having procured a license so to do as required by Article I of this chapter.

6-103 LICENSE Section 3. Any person wishing to sell cereal malt beverage, not for consumption upon the premises, at retail at his place of business located within the corporate limits of the city of Westwood Hills shall make application in writing for a license to the governing body of the city and file same with the city clerk. The application shall be verified and shall contain:

- (a) The name and residence of the applicant and how long he had resided within the State of Kansas;
- (b) The particular place of business for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;

- ^b(2) On the first day of the week, commonly called Sunday;
- ^c(3) On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- ^d(4) Before 9 o'clock A.M. or after 11 o'clock P.M. on any day when the sale is permitted.

6-108 GENERAL EXCEPTIONS Section 8.

A. Nothing contained in this ordinance shall prevent:

- ¹(1.) The making of wine, cider, or beer by persons from fruit, vegetables, or grain or the products thereof for simple fermentation and without distillation if it is made solely for the use of the maker and his family;
- ²(2.) No duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession;
- ³(3.) No drug store employing a licenses pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of duly licenses physicians;
- ⁴(4.) The possession and disposition of wine by an authorized representative of any church for the purpose of conducting any bonafide rite or religious ceremony conducted by such church.

B. None of the provisions of the ordinance shall apply:

- ¹(1.) To flavoring extracts, syrups, or medicinal, mechanical scientific, culinary, or toilet preparations or food products unfit for beverage purpose;
- ²(2.) To wine intended for use and used by any church or religious organization for sacramental purposes.

6-201 VIOLATIONS Section 9. Any person violating any of the provisions of Article I of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100 or by imprisonment in the county jail for not more than 3 months, or by both fine and imprisonment.

~~6-202~~ TAKE EFFECT. This ordinance shall take effect and be in force from and after its publication.

Passed by the City Council this 6th day of February, 1950
Approved by the Mayor this 6th day of February, 1950.

ATTEST:

Chas. M. Rumberg
City Clerk

W. H. Hannon
Mayor

Published: Feb. 13 .1950.

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Chas. M. Rumberg
City Clerk

6-105 Issuance of LICENSE AND DISPLAY THEREOF Section 5. If, after examination of the application by the governing body of the city, it shall approve the same, the city clerk shall cause to be issued a license signed by the Mayor and attested by the clerk and affixed with the seal of the city authorizing the applicant to sell at retail only cereal malt beverage not for consumption upon the premises. Said license shall not be transferable and shall be issued for the calendar year. Every licensee shall cause the city cereal malt beverage license to be placed in a conspicuous place on the licensed premises.

6-106 REVOCATION OF LICENSE Section 6. Any person holding such license shall have the same revoked by the city council for any one of the following reasons;

- (a) If a licensee has fraudulently obtained the license by giving false information on the application therefor;
- (b) If the licensee has violated any of the provisions of this ordinance or any other ordinance of the city;
- (c) If the licensee has become ineligible to obtain a license;
- (d) Drunkenness of the person holding such license or permitting any intoxicated person to remain in his place of business;
- (e) The sale of cereal malt beverage to persons under the age of 21;
- (f) The non-payment of any license fees;
- (g) For permitting any gambling in or upon such premises;
- (h) For permitting any person to mix drinks containing alcoholic liquor with material purchased inside place of business ~~on~~ brought in for this purpose;
- (i) For the employment of persons under 18 years of age in dispensing cereal malt beverage;
- (j) For the employing of persons who have been adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state or of this ordinance;

The city council shall hold a public hearing after having given five (5) days written notice of their intent to revoke such city license;

In cases of the revocation of the license of any licensee, no new license shall be issued to any such person or any person acting for or on his behalf for a period of six months thereafter.

6-107 SALE Section 7. No person shall sell at retail any cereal malt beverage within the corporate limits of the city:

- (1) On the day or any national, state, county, or city election;

(d) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he has not, within the two years immediately preceding the date of making the application been convicted of a crime involving moral turpitude or been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.

If the applicant be a corporation, then the name and residence of each officer and director thereof together with any stock holder owning more in aggregate than 24% of the stock of such corporation and the manager or agent of the place of business shall be stated together with information required in the above subparagraph "(d)" as to each.

Such application shall be accompanied with a fee of \$25.00.

6-104 APPROVAL OF APPLICATION Section 4. The governing body shall not approve the application nor a license be issued to:

- (a) A person who is not a resident of the city or county in which the premises covered by the license are located and who has not been a resident in good faith of the State of Kansas for at least one year prior to said application and a resident of the county in which said place of business is to be operated for at least six months;
- (b) A person who is not of good character and reputation in the community in which he resides;
- (c) A person who is not a citizen of the United States;
- (d) A person who within two years immediately preceding the date of application has been convicted of a felony or a crime involving moral turpitude or been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violating of any other intoxicating liquor law of any other state or the United States;
- (e) A co-partnership unless one of the co-partners is a resident of the county in which the premises covered by the license are located and unless all the members of such co-partnership otherwise be qualified to obtain a license;
- (f) A corporation, if any member, officer, or director thereof or any stock holder owns in aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county;
- (g) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.