

**CITY OF FAIRWAY, KANSAS  
ORDINANCE NO. 1747**

**AN ORDINANCE AMENDING THE FAIRWAY CITY CODE  
PERTAINING TO ALCOHOLIC LIQUOR; AMENDING SECTIONS 3-4,  
3-140, 3-144 AND 3-152 OF THE FAIRWAY CITY CODE AND ADOPTING  
NEW SECTIONS 3-155 AND 3-156 OF THE FAIRWAY CITY CODE.**

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

**SECTION 1.** Existing Section 3-4 of the Fairway City Code is hereby amended to read as follows:

Sec. 3-4. - Consumption on public property.

- (a) *Prohibited.* It is unlawful for any person to sell, serve, dispense or consume any alcoholic liquor or cereal malt beverage in or upon any street, avenue, alley, sidewalk, parkway, right-of-way, parking lot or other such similar public place open to use by the public or where the public may congregate, whether owned publicly or privately, or within any vehicle in or upon such place, except to the extent that curbside to-go sales shall be permitted under Kansas law or applicable state policy; provided, however, that nothing in this subsection (a) shall be construed as modifying or exempting any person from the provisions of the Standard Traffic Ordinance, as adopted by the City, regarding the transportation of alcoholic liquor or cereal malt beverages.
- (b) *Exceptions.*
  - (1) This section shall not apply to the following:
    - 1. a. Peterson Park, including but not limited to the large shelter, multi-purpose rooms and the Shawnee Indian Mission State Historic Site, when managed by the City, which are located in the City, provided that the sale, serving, dispensing and consumption is in accordance with terms and conditions outlined in the temporary alcohol beverage permit application, and further provided the Director of Parks and Recreation or his designee does not conclude the activity would be contrary to the public health, safety or welfare.
    - 2. b. City-sponsored or other City approved events, provided that the sale, serving, dispensing and consumption are in accordance with written standards designed for each specific event approved by the Parks and Recreation Director or his designee.
  - (2) Any other exceptions to the prohibitions of this section must be presented to the Parks and Recreation Director or his designee and approved by the City Council.

**SECTION 2.** Existing Section 3-140 of the Fairway City Code is hereby amended to read as follows:

Sec. 3-140. - Application.

- (a) Any person desiring a license shall make an application to the City Council and accompany the application with the required license fee for each place of business for which the person desires the license. The application shall be verified upon a form prepared by the Attorney General of the State, and shall contain:
  - (1) The name and residence of the applicant;

- (2) The particular place for which a license is desired;
  - (3) The name of the owner of the premises upon which the place of business is located;
  - (4) A statement that the applicant is a citizen of the United States and is not less than twenty-one (21) years of age and that he has not within two (2) years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
- (b) Each application for a general retailer's license shall be accompanied by a certificate from the City or County Health Officer certifying that he has inspected the premises to be licensed and that the same comply with the health code and/or ordinances of the City.
  - (c) Each application for a general retailer's license must be accompanied by a certificate from the City Fire Chief certifying that he has inspected the premises to be licensed and that the same comply with the fire code and/or ordinances of the City.
  - (d) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the City with any information pertinent to the application. One (1) copy of such application shall immediately be transmitted to the Chief of Police for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such applicant to determine whether he is qualified as a licensee under the provisions of this article. The Chief of Police shall report to the City Clerk not later than five (5) working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the City Council at the earliest meeting consistent with current notification requirements.

**SECTION 3.** Existing Section 3-144 of the Fairway City Code is hereby amended to read as follows:

Sec. 3-144. - License, disqualification.

No license shall be issued to the following:

- (1) A person who is not a citizen of the United States;
- (2) A person who is not of good character and reputation in the community in which he resides;
- (3) A person who, within two (2) years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (4) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license;
- (5) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than twenty-five percent (25%) of the stock of such corporation would be ineligible to receive a license hereunder for any reason;
- (6) A corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five percent (25%) of the stock of such corporation has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent (25%) of the stock, of a corporation which:
  - a. Has had a retailer's license revoked under K.S.A. 41-2708; or
  - b. Has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of the State;

- (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, retailer residency 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 section and such felony or other crime was committed during the time that the spouse held a license under K.S.A. ch. 41, art. 27 (K.S.A. 41-2701 et seq.).

**SECTION 4.** Existing Section 3-152 of the Fairway City Code is hereby amended to read as follows:

Sec. 3-152. - Business regulations.

It shall be the duty of every licensee to observe the following regulations:

- (1) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business;
- (2) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the Police and Health Officers of the City, County and State;
- (3) Except as provided by Subsection (4) of this section, no cereal malt beverages may be sold, dispensed, or consumed:
  - a. Between the hours of 11:00 p.m. to the following morning at 9:00 a.m., Monday through Sunday,;
  - b. on Easter Sunday; and
  - c. For consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, and which derives not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises. Closing hours for clubs shall conform to K.S.A. 41-2614;
- (4) Notwithstanding the provisions of Section 3-152(3) above, cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. ch. 41, art. 27 (K.S.A. 41-2701 et seq.), and licensed as a club by the State;
- (5) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State shall be open to the police and not to the public;
- (6) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued;
- (7) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued;
- (8) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under the legal age for consumption;
- (9) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued;

- (10) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose;
- (11) No licensee shall employ any person who has been adjudged guilty of a felony.

**SECTION 5.** New Section 3-155 of the Fairway City Code is hereby adopted as follows:

Sec. 3-155. – To-Go Alcoholic Beverages

A Class A or Class B club license or drinking establishment license 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 opened containers of alcoholic liquor, 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 any 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 containers, 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.

Nothing in this Section 3-155 shall be construed to modify or exempt any person from the Standard Traffic Ordinance, as adopted by the City, regarding the transportation of alcoholic beverages.

**SECTION 6.** New Section 3-156 of the Fairway City Code is hereby adopted as follows:

Sec. 3-156 – Growlers

A Class A or Class B club license or drinking establishment license shall allow the licensee to allow a legal patron to remove one or more containers of beer, domestic beer and cereal malt beverage, as those terms are defined in K.S.A. 41-102, and amendments thereto, 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 64 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

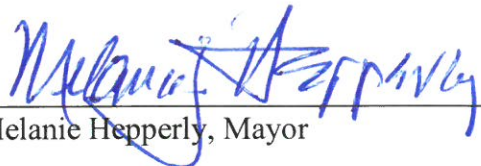
(3) are not sold or removed from the premises after 11:00 p.m.

Nothing in this Section 3-156 shall be construed to modify or exempt any person from the Standard Traffic Ordinance, as adopted by the City, regarding the transportation of alcoholic beverages.

**SECTION 7.** Subject to Section 8 below, existing Sections 3-4, 3-140, 3-144, 3-152 of the Fairway City Code are hereby repealed.

**SECTION 8.** This ordinance shall become effective upon adoption and publication in the official City newspaper; provided, however, as to Section 4 of this ordinance (amending Section 3-152) and pursuant to K.S.A. 41-2911(b) (as amended by 2021 House Bill No. 2137), this ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper, and such Section 4 shall not become effective earlier than sixty (60) days following the date of its publication. If within sixty (60) days following publication of this ordinance, a petition requesting that the proposition be submitted for approval by the voters is filed in accordance with K.S.A. 41-2911(b)(2), Section 4 of this ordinance shall not become effective until a proposition is submitted to and approved at an election as provided in K.S.A. 41-2911(b). The Sections of this ordinance shall be severable such that other sections of this ordinance not subject to such petition process shall take effect after publication in the official city newspaper.


**PASSED** by the City Council the 9th day of August, 2021. **APPROVED** by the Mayor.

  
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Melanie Hepperly, Mayor

ATTEST:

  
\_\_\_\_\_  
Kim Young, City Clerk

APPROVED AS TO FORM:

  
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Richard Cook, City Attorney