

**ORDINANCE NUMBER 21-3400**

**AN ORDINANCE AMENDING CHAPTER 3, SECTIONS 3-101, 3-111, AND 3-604 OF THE CITY CODE OF ABILENE, KANSAS PERTAINING TO THE SALE OF CEREAL MALT BEVERAGES, ENHANCED CEREAL MALT BEVERAGES AND ALCOHOLIC LIQUOR IN ITS ORIGINAL PACKAGING SOLD AT RETAIL, AND THE PERMISSIBLE HOURS AND DAYS FOR SALE OF THE SAME.**

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

**SECTION ONE.** Section 3-101 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

**3-101. Definitions.**

For the purposes of this article, the following words and phrases shall mean:

- (a) *Person* means individuals, firms, partnerships, corporations, and associations.
- (b) *Sale at retail and Retail sale* means sale for use or consumption and not for resale in any form.
- (c) *Place of business* means any place at which cereal malt beverages are sold.
- (d) *Wholesaler or Distributor* means individuals, firms, partnerships, corporations, and associations engaged in the business of selling or offering for sale any cereal malt beverage referred to in this article to any person, corporation, partnership, and association authorized by this article to sell such cereal malt beverage at retail.
- (e) *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, and such term shall include beer, as defined by K.S.A. 41-102, containing not more than six percent alcohol by volume when such beer is sold by a retailer licensed under the Kansas Cereal Malt Beverage Act and the provisions of this chapter.
- (f) *Licensee* means a person as defined in subsection (a) hereof, who has a license as is herein required.
- (g) *On-premises retailer* means a licensee who has a license to sell at retail cereal malt beverages for consumption on the premises of the licensee.
- (h) *Off-premises retailer* means a licensee who has a license to sell at retail cereal malt beverages in original and unopened containers and not for consumption on the premises of the licensee.

(i) *Special event* means an event that is open to the public where the consumption of cereal malt beverages may occur on public streets, alleys, sidewalks, or property.

(j) *Retailer* means a person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form. A retailer may only sell cereal malt beverages at the place of business specified on their license or the location of a special event permit.

**SECTION TWO.** Section 3-111 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

**3-111. Business Regulations.**

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

(a) The license issued by the city shall be posted in a conspicuous place in the place of business for which the license is issued.

(b) The place of business licensed and operating under this article shall have front and rear exits unlocked during all times while open for business.

(c) 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 inspection by public safety and health officers of the city, county, and state.

(d) Except as provided by subsection (e):

(1) No cereal malt beverages may be sold in the original package at retail between the hours of 12:00 midnight and 6:00 a.m., Monday through Saturday; or (2) before 9:00 a.m. or after 8:00 p.m. on Sunday; or (3) on Easter Sunday.

(2) No cereal malt beverages may be sold or dispensed for consumption on premises between the hours of 12:00 midnight and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, 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 and any amendments thereto

(e) 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. 41-2701 *et seq.* and licensed as a club by the State of Kansas.

(f) The place of business shall be open to the public at all times during business hours, except premises licensed as a club under a license issued by the State of Kansas.

(g) No licensee, agent, or employee of the licensee shall become intoxicated in the place of business for which such license has been issued.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) No licensee shall employ any person who has been adjudged guilty of a felony.

**SECTION THREE.** Section 3-604 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

**3-604. Business Regulations.**

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

(a) Every licensee shall cause the alcoholic liquor retailer license to be placed in plain view on the premises.

(b) No person shall sell any alcoholic liquor at retail: (1) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or (2) before 9:00 a.m. or after 8:00 p.m. on Sunday; or (3) on Thanksgiving Day, Christmas Day, or Easter Sunday.

(c) No alcoholic beverages or cereal malt beverages shall be given, sold, or traded to any person under twenty-one (21) years of age.

**SECTION FOUR.** Existing Sections 3-101, 3-111, and 3-604 are hereby repealed.

**SECTION FIVE.** This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 21-3400 Summary

On July 12, 2021, the City Commission passed Ordinance No. 21-3400. The ordinance amends Chapter 3, Sections 3-101, 3-111, and 3-604 of the City Code of the City of Abilene, Kansas to authorize the sale of beer containing not more than 6% alcohol by volume, and to modify the authorized hours and days for sale of cereal malt beverages and alcoholic liquor in the original packaging at retail. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 12<sup>TH</sup> day of July 2021.



City of Abilene, Kansas

By:

A handwritten signature in blue ink, appearing to read "Brandon Rein", is written over a horizontal line.

Brandon Rein, Mayor

Attest:

A handwritten signature in blue ink, appearing to read "Shayla Mohr", is written over a horizontal line.

Shayla Mohr, Interim City Clerk

The publication summary set forth above is certified this 12<sup>TH</sup> day of July 2021.

A handwritten signature in blue ink, appearing to read "Aaron O. Martin", is written over a horizontal line.

Aaron O. Martin, City Attorney