

## ORDINANCE NUMBER 407

### AN ORDINANCE REGULATING THE SALE OF CEREAL MALT BEVERAGE CONTAINING NOT MORE THAN 6% ALCOHOL BY VOLUME WITHIN THE CITY OF BENNINGTON, KANSAS AND AMENDING SECTIONS 3-101, 3-201, AND 3-301 OF THE CODE OF THE CITY OF BENNINGTON, KANSAS RELATING THERETO.

BE IT ORDAINED by the Governing Body of the City of Bennington, Kansas:

**Section 1. Amendment to Section 3-101.** Section 3-101 of the Bennington City Code is hereby amended to read as follows:

**3-101. Definitions.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

- (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 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.
- (c) Caterer means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.
- (d) Cereal Malt Beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2 percent alcohol by weight.
- (e) 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 State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.
- (f) 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
- (g) Club means a Class A or Class B club.
- (h) Drinking Establishment means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

- (i) *Enhanced cereal malt beverage* means beer, as defined by K.S.A. 41-102, and amendments thereto, containing not more than 6% alcohol by volume.
- (j) General Retailer means a person who has a license to sell cereal malt beverages at retail.
- (k) Limited Retailer means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.
- (l) Place of Business. Any place at which cereal malt beverages or alcoholic beverages or both are sold.
- (m) Temporary Permit means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.
- (n) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

**Section 2. Amendment to Section 3-201.** Section 3-201 of the Bennington City Code is hereby amended to read as follows:

**3-201. License required of retailers.**

- (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
- (c) Provisions of this chapter pertaining to licenses, permits, or other legal authorizations for alcoholic liquor sales or consumption notwithstanding, licenses issued pursuant to this section shall be construed to allow enhanced cereal malt beverage sales at retail pursuant to a valid license.

**Section 3. Amendment to Section 3-301.** Section 3-301 of the Bennington City Code is hereby amended to read as follows:

**3-301. State license required.**

- (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor, as defined by the "Kansas liquor control act" without first having obtained a state license to do so; provided, however, that the sale of

enhanced cereal malt beverages shall be permitted pursuant to a valid retail license issued under article 2 of this chapter.

- (b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.


**Section 4. Repealer.** Existing Sections 3-101, 3-201, and 3-301 are hereby repealed.

**Section 5. Effective.** 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.407 Summary

On May 28, 2019, the City Council passed Ordinance No. 407. The Ordinance The ordinance amends Sections 3-101, 3-201, and 3-301 of Chapter 3 of the Bennington City Code. The amendment of such code sections pertain to the sale of beer not more than 6% alcohol by volume by cereal malt beverage retailers. A complete copy of the Ordinance can be found at [www.cityofbennington.com](http://www.cityofbennington.com) or in the office of the City Clerk, 121 N. Nelson, Bennington, Kansas 67422, free of charge. This summary is certified by the City's legal counsel.

Adopted by the City Council and signed by the Mayor this 28th day of May, 2019.

  
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Ward Stockamp, Mayor

[SEAL]

ATTEST:

  
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Adrienne Luthi, City Clerk

Certification of Publication Summary:

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Aaron O. Martin, Legal Counsel