

ORDINANCE NO. 20474

AN ORDINANCE introduced by Councilmember Spencer Duncan, concerning common consumption areas, creating Article V in Chapter 9.15 of the Topeka Municipal Code, amending § 9.15.010 and § 12.70.070 and repealing original sections.

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

Section 1. That section 9.15.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

Unless otherwise defined in this chapter, the terms used in this chapter shall have the same meaning and definitions as defined in K.S.A. Chapter 41 and amendments thereto. As used in this chapter:

(a) “Beer” means beer as defined by K.S.A. 41-102 and amendments thereto, but containing not more than six percent alcohol by volume.

(b) “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, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

(c) “Common consumption area” or “CCA” means a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas Liquor Control Act or the Club and Drinking Establishment Act where the possession and consumption of alcoholic liquor or cereal malt beverage is allowed pursuant to a common consumption area permit issued by the Director.

(d) “Director” means the director of alcoholic beverage control of the Kansas Department of Revenue.

(ee) “Off-premises retailer” means a person who is licensed under the Kansas Cereal Malt Beverage Act and who sells or offers for sale any cereal malt beverage or beer in original and unopened containers that is not for consumption on the premises.

(ef) “On-premises retailer” means a person who is licensed under the Kansas Cereal Malt Beverage Act and who sells or offers for sale any cereal malt beverage or beer for consumption on the premises.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding an article, to be numbered Article V, which said article reads as follows:

Article V. Common Consumption (City as permittee)

Section 3. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.15.360, which said section reads as follows:

Common consumption areas established; boundaries.

(a) The governing body hereby establishes the following common consumption areas (“CCA”):

(1) Downtown. The area encompassing 4th Street on the north; 10th Avenue on the south; Quincy Street on the east; and Jackson Street on the west.

(2) NOTO. The area encompassing Fairchild Street on the north, Norris Street on the south, Quincy Street on the east and Jackson Street on the west.

(b) Public streets or roadways within a CCA may be blocked from motorized traffic during the hours in which alcoholic liquor or cereal malt beverage is consumed.

Section 4. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.15.370, which said section reads as follows:

Hours.

52 The possession and consumption of alcoholic liquor or cereal malt beverage in
53 each CCA shall be allowed only between the hours of 8 a.m. and 11:59 p.m Sunday
54 through Saturday.

55 Section 5. That the Code of the City of Topeka, Kansas, is hereby amended
56 by adding a section, to be numbered 9.15.380, which said section reads as follows:

57 **State permit required.**

58 Possession and consumption of alcoholic liquor or cereal malt beverage is
59 authorized provided that a common consumption permit has been issued to the City by
60 the Director in accordance with K.S.A. 41-2659, as amended.

61 Section 6. That the Code of the City of Topeka, Kansas, is hereby amended
62 by adding a section, to be numbered 9.15.390, which said section reads as follows:

63 **Authorized alcoholic liquor/cereal malt beverage containers.**

64 All alcoholic liquor or cereal malt beverage removed from a premise licensed by
65 the Director shall be served in a container that displays the licensee's name, logo or
66 other identifying mark that is unique to the licensee. No alcoholic beverage removed
67 from a licensed premise shall be in a glass container.

68 Section 7. That the Code of the City of Topeka, Kansas, is hereby amended
69 by adding a section, to be numbered 9.15.400, which said section reads as follows:

70 **Purchases outside of a CCA.**

71 The possession or consumption of alcoholic liquor or cereal malt beverage
72 purchased outside the boundaries of a CCA shall not be permitted inside the
73 boundaries of a CCA.

74 Section 8. That the Code of the City of Topeka, Kansas, is hereby amended
75 by adding a section, to be numbered 9.15.410, which said section reads as follows:

76 **Purchases within a CCA.**

77 No open container of alcoholic liquor or cereal malt beverage purchased within a
78 CCA shall be removed from the boundaries of a CCA.

79 Section 9. That the Code of the City of Topeka, Kansas, is hereby amended
80 by adding a section, to be numbered 9.15.420, which said section reads as follows:

81 **Inappropriate conduct.**

82 Inappropriate conduct shall not be permitted within the boundaries of a CCA. Any
83 person engaging in inappropriate conduct may be subject to removal from the event.
84 Inappropriate conduct includes, but is not limited to, fighting, harassment, destruction of
85 property or committing any violation of City ordinances or state law.

86 Section 10. That the Code of the City of Topeka, Kansas, is hereby amended
87 by adding a section, to be numbered 9.15.430, which said section reads as follows:

88 **Compliance with regulations.**

89 All licensees approved by the Director to participate in the CCA shall at all times
90 comply with all City ordinances, state and federal laws regulating the purchase, sale
91 and consumption of alcoholic liquor and cereal malt beverage.

92 Section 11. That the Code of the City of Topeka, Kansas, is hereby amended
93 by adding a section, to be numbered 9.15.440, which said section reads as follows:

94 **Authorization for CCA permit.**

95 The city manager or designee is authorized to take all necessary actions relative
96 to administering a CCA, including but not limited to, enacting regulations and executing
97 all documents required to obtain a CCA permit on behalf of the City.

98 Section 12. That section 12.70.070, Alcohol and cereal malt beverage
99 consumption, of The Code of the City of Topeka, Kansas, is hereby amended to read as

follows:

Alcohol and cereal malt beverage consumption.

(a) Each applicant who intends to allow the sale and/or consumption of alcoholic liquor or cereal malt beverages at a special event shall request approval from the Governing Body pursuant to TMC 9.15.020.

(b) Subsection (a) shall not apply if the special event occurs within the boundaries of a common consumption area established pursuant to K.S.A. 41-2659.

Section 13. That original § 9.15.010 and § 12.70.070 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 14. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 15. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 16. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on December 19, 2023.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk