

1     *The ordinance was passed and approved by the City Council on September 21,*  
2     *2010 and vetoed by the Mayor on September 23, 2010.*

3  
4                     **ORDINANCE NO. 19470**

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6     AN ORDINANCE     introduced by Councilmember Karen Hiller amending City of  
7                             Topeka Code § 9.15.020, concerning the unlawful possession or  
8                             consumption of alcoholic liquor or cereal malt beverages and  
9                             specifically repealing said original section.

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11                    BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

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13                    Section 1.     That section 9.15.020, Unlawful possession or consumption of  
14     alcoholic liquor or cereal malt beverages of The Code of the City of Topeka, Kansas, is  
15     hereby amended to read as follows:

16                    **Unlawful possession or consumption of alcoholic liquor or cereal malt**  
17     **beverages.**

18                    (a)     On Public Roads or Unenclosed Private Property Accessible to Public. No  
19     person shall drink, or have in his possession in an open container, any alcoholic liquor  
20     or cereal malt beverage on public streets, alleys, roads, highways or unenclosed private  
21     property that is accessible to the general public, including but not limited to parking lots,  
22     within the city or inside vehicles while on such places within the city.

23                    (b)     Private Property – Exceptions. No person shall drink or consume, or have  
24     in his possession in an open container, any alcoholic liquor or cereal malt beverage on  
25     private property, except:

26                    (1)     On premises where the sale of liquor by the individual drink is  
27     authorized by the state Club and Drinking Establishment Act by issuance of a  
28     license by the state Director of Alcoholic Beverage Control;

29           (2)     Upon private property by a person occupying such property as an  
30 owner or lessee of an owner and by the guests of such person, if no charge is  
31 made for the serving or mixing of any drinks containing alcoholic liquor nor for  
32 any substance mixed with any alcoholic liquor, and if no sale of alcoholic liquor  
33 takes place in violation of K.S.A. 41-803 and amendments thereto;

34           (3)     In a lodging room of any hotel, motel or boardinghouse by the  
35 person occupying such room and by the guests of such person, if no charge is  
36 made for the serving or mixing of drinks containing alcoholic liquor nor for any  
37 substance mixed with any alcoholic liquor, and if no sale of alcoholic liquor takes  
38 place in violation of K.S.A. 41-803 and amendments thereto;

39           (4)     In a private dining room of a hotel, motel or restaurant if the dining  
40 room is rented or made available on a special occasion to an individual or  
41 organization for a private party, and if no sale of alcoholic liquor takes place in  
42 violation of K.S.A. 41-803 and amendments thereto; or

43           (5)     On the premises of a microbrewery or farm winery, if authorized by  
44 the Kansas Liquor Control Act (K.S.A. 41-101 et seq.) by issuance of a license by  
45 the state Director of Alcoholic Beverage Control.

46           (c)     In a Private Room of a Place of Business – Exception. No person shall  
47 consume cereal malt beverages in any private room or closed booth in a place of  
48 business operating pursuant to K.S.A. Chapter 41, Article 27 (K.S.A. 41-2701 et seq.)  
49 unless the licensed premises are also currently licensed as a club pursuant to K.S.A.  
50 Chapter 41, Article 26 (K.S.A. 41-2601 et seq.).

51 (d) On Public or Municipal Property – Exceptions. No person shall drink or  
52 consume, or have in his possession in an open container, any alcoholic liquor or cereal  
53 malt beverage on public or municipal property, except:

54 (1) Those premises owned by the city and under the control of the  
55 airport authority which have been properly leased to private persons, and  
56 properly licensed under applicable state and local laws for the sale and  
57 dispensing of alcoholic liquor and cereal malt beverages;

58 (2) Real property leased by the city to others under the provisions of  
59 K.S.A. 12-1740 through 12-1749 inclusive, and amendments thereto, the  
60 Industrial Revenue Bond Law, if such property is actually being used for hotel or  
61 motel purposes or purposes incidental thereto;

62 (3) Any state-owned or state-operated building or structure and upon  
63 the surrounding premises which are furnished to and occupied by any state  
64 officer or employee as a residence;

65 (4) Cereal malt beverages or alcoholic liquor at the Performing Arts  
66 Center of Topeka, Topeka Zoological Park, Ward Meade Home and Gardens,  
67 Helen Hocker Performing Arts Center, Heartland Park Topeka, Topeka Public  
68 Golf Course, Stormont-Vail Regional Medical Center, and property leased to the  
69 Kansas International Museum as per City of Topeka Contract No. 26119,  
70 provided prior written authorization for such possession or consumption is  
71 obtained from the ~~director of parks and recreation~~ city manager or his or her  
72 designee;

(5) Specified property designated as authorized by K.S.A. 41-719(d);  
or

(6) The National Guard Armory; or

(7) At a special event held at any City building or facility as specifically  
authorized by a resolution approved by the city council setting forth the time and  
date for which the alcoholic liquor and/or cereal malt beverages may be  
possessed and consumed.

Section 2. That original § 9.15.020 of The Code of the City of Topeka, Kansas,  
is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its  
passage, approval and publication in the official City newspaper.

Section 4. All ordinances, resolutions or rules, or portions thereof, inconsistent  
with the provisions of this ordinance are hereby rescinded or repealed.

Section 5. 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 City Council September 21, 2010.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

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Brenda Younger, City Clerk

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