

(Published in the Topeka Metro News December 26, 2011)

ORDINANCE NO. 19681

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, amending City of Topeka Code § 9.15.020, concerning alcohol in parks and public places and specifically repealing said original section.

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

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

Unlawful possession or consumption of alcoholic liquor or cereal malt beverages.

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

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

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

(2) Upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is

made for the serving or mixing of any drinks containing alcoholic liquor nor for any substance mixed with any alcoholic liquor, and if no sale of alcoholic liquor takes place in violation of K.S.A. 41-803 and amendments thereto;

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

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

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

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

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

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

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

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

62 (4) Cereal malt beverages or alcoholic liquor at the Performing Arts
63 Center of Topeka, Topeka Zoological Park, ~~Ward Meade Home and Gardens,~~
64 ~~Helen Hocker Performing Arts Center, and Heartland Park Topeka, Topeka~~
65 ~~Public Golf Course, and property leased to the Kansas Children's Discovery~~
66 ~~Center, Inc., as per City of Topeka Contract No. 38390, provided prior written~~
67 ~~authorization for such possession or consumption is obtained from the director of~~
68 ~~parks and recreation;~~

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

71 (6) The National Guard Armory.

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

Section 3. This ordinance shall take effect and be in force on January 1, 2012, and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

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 December 20, 2011.

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk