

(Published in the Topeka Metro News July 29, 2013)

ORDINANCE NO. 19838

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 9.15.020 and specifically repealing said original section, concerning possession and consumption of alcoholic liquor and cereal malt beverages.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

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; Exception.

(a) On Public Roads or Unenclosed Private Property Accessible to Public ~~--~~ Exception. No person shall drink, or ~~have in his possession in~~ possess an open container, ~~any~~ of 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. Except for consumption of alcoholic liquor or cereal malt beverages inside vehicles, this subsection shall not apply to possession or consumption of alcoholic liquor or cereal malt beverage on public streets, alleys, roads, sidewalks, or highways provided the governing body has approved a special event pursuant to K.S.A. 41-719 and 41-2645 and amendments thereto and/or issued a special event retailers' permit pursuant to K.S.A. 41-2703 and amendments thereto.

(b) Private Property – Exceptions. No person shall drink or consume, or ~~have in his possession in~~ possess an open container, ~~any~~ of alcoholic liquor or cereal malt

30 beverage on private property, except:

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

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

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

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

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

52 (6) Complimentary alcoholic liquor or cereal malt beverage served on
53 the unlicensed premises of a business by the business owner or agent at an

54 event sponsored by a nonprofit organization promoting the arts and which has
55 been approved by the governing body.

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

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

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

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

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

75 (4) Cereal malt beverages or alcoholic liquor at the Performing Arts
76 Center of Topeka, Topeka Zoological Park, Helen Hocker Performing Arts
77 Center, and Heartland Park Topeka;

(5) Specified property, the title of which is vested in the City,
designated as authorized by K.S.A. 41-719(d) or (e) and amendments thereto;

(6) ~~The National Guard Armory; or~~ On the premises of any Kansas
national guard regional training center or armory and any building on such
premises, as authorized by the regulations of the Adjutant General and approval
by the Kansas Military Board;

(7) Cereal malt beverages served outside of the premises of a retailer
provided the retailer has secured both a sidewalk cafe permit and a sidewalk
fence permit pursuant to Article II of Chapter 12.10 TMC,

(8) On the premises of any land or waters owned or managed by the
Kansas Department of Wildlife, Parks, and Tourism unless prohibited by
regulations adopted by the Secretary of the Kansas Department of Wildlife,
Parks, and Tourism;

(9) In the Kansas State History Museum and the surrounding premises
including buildings on the premises, as authorized by the regulations of the
Kansas State Historical Society; or

(10) On the premises of any state-owned historic site under the
jurisdiction and supervision of the State Historical Society and on the surrounding
premises, including building on the premises, as authorized by the rules and
regulations of the Kansas State Historical Society.

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. 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 on July 23, 2013.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk