

Passed: March 8, 2016

Published: March 16, 2016

ORDINANCE NO. 2266

AN ORDINANCE AMENDING SECTION 5.16.040 OF THE DERBY MUNICIPAL CODE; FURTHER AMENDING CHAPTER 5.16 by DELETING AND RESERVING SECTION 5.16.030 OF THE SAME FOR FUTURE USE; AND FURTHER AMENDING CHAPTER 5.16 by DELETING AND RESERVING ARTICLE V-SECTIONS 5.16.270, 5.16.280, 5.16.290, 5.16.300, and 5.16.310, inclusive, OF THE SAME FOR FUTURE USE, ALL PERTAINING TO ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES, AND REPEALING ORIGINAL SECTIONS 5.16.030, 5.16.040, 5.16.270, 5.16.280, 5.16.290, 5.16.300, and 5.16.310 OF SAID CODE.

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

Section 1. Section 5.16.040 – Possession and consumption of alcoholic liquor and cereal malt beverage on public property is hereby amended to read as follows:

“5.16.040—Possession and consumption of alcoholic liquor and cereal malt beverage on public property

- A. No person shall unlawfully possess or drink or consume alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highways of the city or inside a vehicle while on such public streets, alleys, roads or highways.
- B. Except as otherwise provided in this section, no person shall unlawfully possess or drink or consume alcoholic liquor or cereal malt beverages on city-owned property.
- C. Alcoholic liquor may be possessed and consumed upon or within the following city-owned premises, properties and facilities pursuant to and in compliance with the terms, conditions, rules and regulations contained in or applicable to a rental agreement or alcohol use agreement therefor and, if any, the applicable license or temporary permit for sale of alcoholic liquor issued and in effect for such premises, property or facility:
 - 1. Any real property leased by the city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto;
 - 2. The Derby Public Library, during hours when the library is closed to the public;
 - 3. The Derby Public Library Community Room, during hours when the library is open to the public;
 - 4. High Park, Madison Avenue Central Park, and Warren Riverview Park in areas specifically designated by the city manager for consumption of alcoholic liquor; and

5. The Derby Welcome Center in areas specifically designated by the city manager for consumption of alcoholic liquor.

Provided, that during any period for which a license or temporary permit for sale of alcoholic liquor is in effect for a premises or area, no person shall possess or consume any alcoholic liquor not purchased from the holder of such license or permit.

- D. Cereal malt beverage may be possessed and consumed upon or within the following city-owned premises, property and facilities pursuant to and in compliance with the terms, conditions, rules and regulations contained in or applicable to a rental agreement or alcohol use agreement therefor and, if any, the applicable special event CMB permit issued and in effect for such premises, property or facility:
 1. Any real property leased by the city to others under the provision of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes, or purposes incidental thereto; and
 2. The Derby Public Library, during hours when the library is closed to the public;
 3. The Derby Public Library Community Room, during hours when the library is open to the public;
 4. High Park, Madison Avenue Central Park, and Warren Riverview Park, in areas specifically designated by the city manager for consumption of cereal malt beverages; and
 5. The Derby Welcome Center in areas specifically designated by the city manager for consumption of cereal malt beverages.

Provided, that during any period for which a special event CMB permit is in effect for a premises or area, no person shall possess or consume any cereal malt beverage not purchased from the holder of such permit.

- E. No person other than the holder of a license or temporary permit for sale of alcoholic liquor shall sell, offer for sale or otherwise distribute alcoholic liquor upon or within any premises, property, facility or area for which such license or permit has been issued.
- F. No person other than the holder of a special event CMB permit shall sell, offer for sale or otherwise distribute cereal malt beverage upon or within any premises, property, facility or area for which such permit has been issued.
- G. Violations of subsection A, E or F of this section are punishable by a fine of not more than five hundred dollars, imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.
- H. Violations of subsection B of this section are punishable by a fine of not less than fifty dollars or more than two hundred dollars.

Upon conviction of a person eighteen or more years of age but less than twenty-one years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to

exceed the fee established by that statute for such evaluation; provided, that such fee may be waived if the judge finds a defendant to be indigent.

Section 2. The original provisions of Section 5.16.040 are hereby repealed and replaced as provided herein.

Section 3. Section 5.16.030 – Minor on premises is hereby deleted from the Derby Municipal Code. Section number 5.16.030 is hereby reserved for future use.

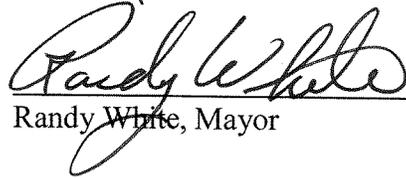
Section 4. Article V-Caterers of Chapter 5.16, Sections 5.16.270 – License required, 5.16.280—License fee, 5.16.290—Business regulations, 5.16.300—Notice to chief of police, and 5.16.310—Penalty for violation, inclusive, are hereby deleted from the Derby Municipal Code. Article V of Chapter 5.16 and Section numbers 5.16.270 to 5.16.310, inclusive are hereby reserved for future use.

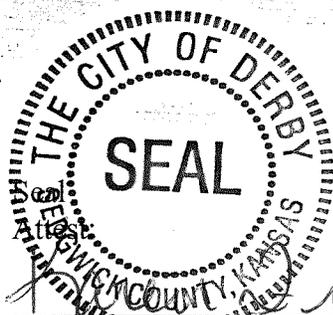
Section 5. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein.

Section 6. Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

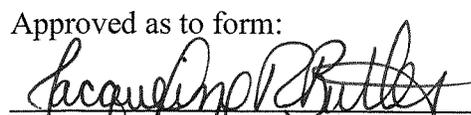
Section 7. This Ordinance shall take effect and be in force from and after its publication or a summary thereof once in the official city newspaper.

PASSED by the City Council on the 8th day of March, 2016, and **SIGNED** by the Mayor.


Randy White, Mayor




Karen Friend, City Clerk

Approved as to form:

Jacqueline R. Butler, City Attorney