

ORDINANCE NO. 2230

AN ORDINANCE PERTAINING TO ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE; AMENDING CHAPTER 3, ARTICLE 1, SECTIONS 3-104 AND 3-105 OF THE CODE OF THE CITY OF AUGUSTA, KANSAS; ADDING A NEW "ARTICLE 8. COMMON CONSUMPTION AREA" TO "CHAPTER 3. BEVERAGES" OF THE CODE; ESTABLISHING THE RED BRICK SOCIAL DISTRICT COMMON CONSUMPTION AREA; AND AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE WITHIN ITS BOUNDARIES.

WHEREAS, K.S.A. 41-2659 permits a city to establish, by ordinance or resolution, one or more common consumption areas within the limits of the city, and to authorize the possession and consumption of alcoholic liquor or cereal malt beverage within the common consumption area; and

WHEREAS, Subsection (g)(1) of K.S.A. 41-2659 states that "common consumption area" 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.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AUGUSTA, KANSAS:

SECTION ONE: Chapter 3, Article 1, Sections 3-104 and 3-105 of the Augusta Municipal Code are hereby amended to read as follows:

"3-104. Consumption on public property.

Except as provided herein (e.g., Section 3-108 and Chapter 3, Article 8), no person shall drink or consume any alcoholic liquor or cereal malt beverage on City-owned public property.

(K.S.A. Supp. 41-719; K.S.A. K.S.A. 41-2659; Ord. 1784; Sec. 1; Code 2010)

3-105. Public sale; consumption.

Except as provided herein (e.g., Section 3-108 and Chapter 3, Article 8):

- (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the City.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the City.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated.

(K.S.A. 41-719; K.S.A. 41-2659; Code 1991)"

SECTION TWO: Chapter 3, Article 8 is hereby added to the Augusta Municipal Code to read as follows:

“3-801. Common Consumption Area established.

- (a) **Establishment.** In accordance with K.S.A. 41-2659, and amendments thereto, the Governing Body hereby establishes the Red Brick Social District Common Consumption Area (“CCA”) located in the Designated Main Street area (encompassed by the following boundaries: on the north by the old railroad right of way; on the south by Second Avenue; on the west by the north-south alley between Walnut Street and State Street; and on the east by the north-south alley between State Street and School Street), provided that a common consumption area permit has been issued by the Director of the Kansas Department of Revenue Division of Alcoholic Beverage Control (“Director”).
- (b) **Boundary Identification.** The boundaries of the CCA must be clearly marked using a physical barrier or any apparent line of demarcation. Every CCA shall have signs conspicuously posted identifying the boundaries of such area, and such signs must be in a size and manner that provides notice to persons entering or leaving the area.
- (c) **Hours.** The possession and consumption of alcoholic liquor or cereal malt beverage in the CCA is authorized between the hours of 11:00 AM until 10:00 PM only on Thursday, Friday, and Saturday. An exception may be made for a change in day or time if prior approval is granted via a special event permit approved by the Governing Body.

3-802. Common Consumption Area - Rules of Conduct.

- (a) **Sales Conditions.** CCA permits are for possession and consumption of alcoholic liquor or cereal malt beverage only. No sales of alcoholic liquor or cereal malt beverage may occur on premises covered by the CCA permit unless the sales are conducted by a caterer licensed in accordance with all City requirements for a catered event, a separate special event permit has been issued for that specific area, or a drinking establishment has been authorized in writing by the City Clerk or designee to operate a noncontiguous service area in accordance with K.S.A. 41-2659(e)(2).
- (b) **Consumption Areas.** Alcoholic liquor or cereal malt beverage drinks may be consumed on public property within the CCA including sidewalks and crosswalks but shall not be consumed in public parking lots, street parking stalls, or the public thoroughfare (“street”) unless the street has been closed to vehicular traffic for a special event approved by the Governing Body.
- (c) **Purchases Outside of the CCA.** The possession and consumption of alcoholic liquor or cereal malt beverage purchased outside of the CCA and its participating licensees shall not be permitted inside the boundaries of the CCA without prior approval of a special event permit by the Governing Body.
- (d) **Removal of Purchases from Within the CCA.** No open container of alcoholic liquor or cereal malt beverage purchased within the CCA shall be removed from the boundaries of the CCA.
- (e) **Containers and One-Drink per-person on-street limit.** All alcoholic liquor and cereal malt beverage removed from a licensed premises or otherwise sold within the CCA shall be served in a paper or plastic cup no larger than sixteen (16) fluid ounces that displays the licensee’s

trade name or logo or other identifying mark that is unique to the licensee. No establishment participating in the CCA shall allow any person to leave their premises and enter the CCA with more than one such alcoholic beverage at a time. Paper or plastic cups shall be single serve and not be refilled by the licensee identified on the cup, by any other licensed establishment participating in the CCA, or by any other person or party.

- (f) **Conduct.** All persons within the CCA shall follow all laws and ordinances concerning the purchase, sale, and consumption of alcohol or cereal malt beverage. Any person acting in a way that violates any provisions of the Municipal Code, State or Federal laws, including but not limited to any offenses against person, property, the public peace, the public safety, or public morals, will be removed from the CCA.
- (g) **Licensed Premises.** Any licensee of a licensed premises located within or immediately adjacent to the CCA may request permission from the Kansas Alcoholic and Beverage Control Director to participate in the CCA upon forms prescribed by the Director.
 - (1) **Removal of Alcohol from Licensed Premises.** Any licensee of a licensed premises who has requested and received permission to participate in the CCA may allow its legal patrons to remove one alcoholic liquor or cereal malt beverage purchased from the licensee per person into the premises described by the CCA permit.
 - (2) **Noncontiguous Sales.** In addition to their licensed premises, one or more licensees that have requested and received permission to participate in the CCA may offer for sale, sell, and serve alcoholic liquor or cereal malt beverage for consumption from one noncontiguous service area within the CCA, as designated and approved by the CCA permit holder. The licensee shall prominently display a copy of its drinking establishment license and the approval of the CCA permit holder at its noncontiguous service area.
 - (3) **Compliance with Applicable Laws.** Each licensee within the CCA shall comply with all City ordinances, Federal and State laws regulating the purchase, sale and consumption of alcoholic liquor or cereal malt beverage. Any violations of the common consumption area restrictions, City ordinances, or State or Federal laws may result in revocation of the licensee's participation in the CCA. Each licensee within the CCA shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises.
 - (4) **Signage.** Any licensed establishment that allows patrons to leave the establishment with an alcoholic beverage in an open container as provided in this Article shall maintain posted inside all exit doors for clear public view a map of the current boundaries of the entertainment district and a sign of at least eleven (11) inches by eight and one-half (8.5) inches that states the following:

"All patrons leaving this establishment with an alcoholic beverage in an open container do hereby assume full responsibility to consume such alcoholic beverage only if it has been served in a paper or plastic cup not to exceed 16 ounces in size and obtained from an establishment licensed to sell alcoholic beverages within the common consumption area (CCA) outlined on the map below. Any individual who leaves the CCA with an alcoholic beverage in an open container is in violation of the Augusta, KS Code of Ordinances and may be subject to a citation, arrest, incarceration, and/or fine."
 - (4) **Liability.** Each licensee within a CCA shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises. Licensee shall provide any insurance coverage or proof of

coverage as may be required by the Governing Body as a condition of participating in the CCA.

3-803 Common Consumption Area - Notification.

Upon passage of an ordinance or resolution establishing a CCA, the City shall immediately notify the Director of the Kansas Alcoholic Beverage Control Division of the establishment of the CCA and submit a copy of the ordinance or resolution along with such notice.”

SECTION THREE: All ordinances or parts of ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.


SECTION FOUR: This Ordinance shall become effective upon passage and publication of the Ordinance summary as provided by law.

Passed by the City Council on this 20th day of November, 2023.

Signed by the Mayor this 20th day of November, 2023.


MIKE L. RAWLINGS, MAYOR

ATTEST:


ERICA L. JONES, CITY CLERK

