

ORDINANCE NO. 17-42

AN ORDINANCE REVIVING AND AMENDING OLATHE MUNICIPAL CODE SECTION 7.02.040 AND AMENDING SECTIONS 9.06.021, 9.06.022, and 12.21.230; PERTAINING TO POSSESSING AND CONSUMING OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY; AND REPEALING THE EXISTING SECTIONS.

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

SECTION ONE: Section 7.02.040 of the Olathe Municipal Code is hereby revived and amended to read as follows:

“7.02.040 Consumption on Public Property.

(A) No person shall possess or consume alcoholic liquor or cereal malt beverages on any public lands to which the City holds title without a permit issued pursuant to this section.

(B) Except as provided in subsection (C), an application for a permit to possess or consume alcoholic liquor or cereal malt beverages on public lands must include either:

(1) A valid caterer’s license, pursuant to O.M.C. Chapter 7.10; or

(2) A valid temporary permit, pursuant to O.M.C. Chapter 7.12.

(C) The City Manager or designee may issue a consumption permit for City-sponsored events on public lands where no alcoholic liquor or cereal malt beverages will be sold or served, but may be possessed or consumed.

(D) Permits issued pursuant to this section shall state the boundaries of the permitted area and the period that the permit is valid. The approval, denial, or revocation of such permits is at the sole discretion of the City. The permit may include any conditions or restrictions the City deems necessary for the public health, safety, and welfare, and to protect and preserve Public Lands.

(E) As a condition of the permit, the applicant will agree to follow all applicable laws regarding consuming of alcohol, including, but not limited to, Chapter 41 of the Kansas Statutes Annotated, Title 7 and Title 9 of the Olathe Municipal Code, and any rules and regulations promulgated thereunder. The applicant will also agree to follow all lawful orders of the division of alcoholic beverage control of the Kansas Department of Revenue and the Olathe Police Department.

(F) The City Manager or designee may issue rules and regulations to implement the provisions of this section.”

SECTION TWO: Section 9.06.021 of the Olathe Municipal Code is hereby amended to read as follows:

“9.06.021 Consumption on Public Property.

(A)- It shall be unlawful for any person to drink or consume alcoholic liquor or cereal malt beverages upon the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(B)- Except as provided in O.M.C. 7.02.040, it shall be unlawful for any person to drink or consume any alcoholic liquor or cereal malt beverages on City-owned property. ~~However, This prohibition shall not apply to the Mahaffie House and Farmstead, which is located on property owned by the City legally described as Tracts A and B, MAHAFFIE HOUSE ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, to the Heritage Center, which is located on property owned by the City legally described as Lot 1, MAHAFFIE HOUSE EAST ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or to the Olathe Community Center, which is located on property owned by the City legally described as Lot 1, KANSAS CITY ROAD PARK SOUTH, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or on City-owned property or City right-of-way, if such real property is actually being used in association with a City-issued caterer or temporary event permit, or on~~ 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.

(C)- Upon a conviction, plea of no contest, or guilty plea for a violation of this Section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

(D)- Violation of any provision of this Section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars (\$50.00) or more than ~~Two~~ Five Hundred Dollars

(\$~~200.00~~500.00) or by imprisonment for not more than six (6) months, or both.”

SECTION THREE: Section 9.06.022 of the Olathe Municipal Code is hereby amended to read as follows:

“9.06.022 Possession on Public Property.

~~(A).~~ It shall be unlawful for any person to have in his or her possession any open container of alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highway.

~~(B).~~ Except as provided in O.M.C. 7.02.040, it shall be unlawful for any person to have in his or her possession any open container of alcoholic liquor or cereal malt beverage on City-owned property. ~~However,~~ This prohibition shall not apply to the Mahaffie House and Farmstead, which is located on property owned by the City legally described as Tracts A and B, MAHAFFIE HOUSE ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, to the Heritage Center, which is located on property owned by the City legally described as Lot 1, MAHAFFIE HOUSE EAST ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or to the Olathe Community Center, which is located on property owned by the City legally described as Lot 1, KANSAS CITY ROAD PARK SOUTH, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or on City-owned property or City right-of-way, if such real property is actually being used in association with a City-issued caterer or temporary event permit, or on 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.

~~(C).~~ Upon a conviction, plea of no contest, or guilty plea for a violation of this Section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

(D)- Violation of any provision of this Section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars (\$50.00) or more than ~~Two~~ Five Hundred Dollars (~~\$200.00~~500.00) or by imprisonment for not more than six (6) months, or both.”

SECTION FOUR: Section 12.21.230 of the Olathe Municipal Code is hereby amended to read as follows:

12.21.230 Prohibition Against Alcoholic Beverages and Cereal Malt Beverages.

It shall be unlawful for any person or persons to bring, use, consume or possess on the premises of any Public Lands any alcoholic liquor or cereal malt beverage, except as is provided for in Olathe Municipal Code Sections 9.06.021, ~~and~~ 9.06.022, and 7.02.040.

SECTION FIVE: Existing Sections 9.06.021, 9.06.022, and 12.21.230 are hereby repealed.

SECTION SIX: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

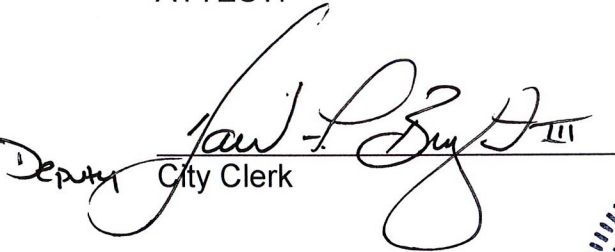
PASSED by the Governing Body this 15th day of August 2017.

SIGNED by the Mayor this 15th day of August 2017.



Mayor

ATTEST:


Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:



City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.