

## **ORDINANCE NO. 7511**

**AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 4, SECTION 4-2, AND ARTICLE VIII OF CHAPTER 30, SECTION 30-114 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, RELATING TO SIDEWALK CAFÉ REGULATIONS WITHIN CERTAIN CITY PROPERTY ADJACENT TO 12<sup>TH</sup> STREET IN THE C-3 AGGIEVILLE BUSINESS DISTRICT AND DESIGNATED FOR USE AS A SIDEWALK CAFÉ.**

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

**Section 1:** That Section 4-2 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 4-2. Consumption and possession in certain places forbidden.**

- (a) It shall be unlawful for any person to drink or consume alcoholic liquor or cereal malt beverage, or to possess an open container holding such cereal malt beverage or alcoholic liquor, while upon the public streets, sidewalks, alleys, parking lots, roads, parks, recreation areas, open space areas, or highways within the city, or upon property owned by the state or any governmental subdivision thereof, pursuant to K.S.A. 41-719, and amendments thereto.
- (b) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the Sunset Zoological Park, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed in conformity with state law, city ordinances, and all rules and regulations governing the use of the Sunset Zoological Park.
- (c) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the confines of the Manhattan Regional Airport passenger terminal, so long as such alcoholic liquor or cereal malt beverage was purchased from an airport concessionaire licensed to sell alcoholic liquor and/or cereal malt beverages, and, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed only in areas designated by the airport director for such activities, and done so in a manner that conforms with state law, city ordinances, and airport rules and regulations.
- (d) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the confines of the Union Pacific Depot, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed in conformity with state law, city ordinances, and all rules and regulations governing the use of the Union Pacific Depot.
- (e) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the confines of the Jon and Ruth Ann Wefald Pavilion, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed in conformity with state law, city

ordinances, and all rules and regulations governing the use of the Wefald Pavilion.

- (f) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the confines of the Flint Hills Discovery Center, within its outdoor terraces, or within the driveway and parking lot south and southeast of the Flint Hills Discovery Center, more particularly described as Lot 7 of the Downtown Entertainment District Commercial PUD, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed in conformity with state law, city ordinances, all rules and regulations governing the use of the Flint Hills Discovery Center, and, when applicable, the terms and conditions of a city special event permit.
- (g) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage within the public park known, for purposes of this Article, as Blue Earth Plaza, and more particularly described as Lot 8 of the Downtown Entertainment District Commercial PUD, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed only in areas designated by the Parks and Recreation Director for such activities, and done so in a manner that conforms with state law, city ordinances, all rules and regulations governing the use of Blue Earth Plaza, and, when applicable, the terms and conditions of a city special event permit.
- (h) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage on specified property, title of which is vested in the city, that the city has exempted by ordinance or resolution, if such possession and consumption is in accordance with the ordinance or resolution.
- (i) Neither subsection (a) nor K.S.A. 41-719 shall apply to persons possessing or consuming alcoholic liquor or cereal malt beverage on property, title of which is vested in the city, located adjacent to 12<sup>th</sup> Street in the C-3 Aggieville Business District and designed for use as a sidewalk café, so long as such alcoholic liquor or cereal malt beverage is possessed and consumed in a manner that conforms with state law, city ordinances, and the terms and conditions of a city temporary use permit for a sidewalk café issued pursuant to Section 30-114 of the city code.
- (j) A violation of this section is a misdemeanor punishable by a fine of not less than \$50.00 or more than \$200.00, or by imprisonment for not more than six months, or both such fine and imprisonment.

**Section 2.** That Section 30-114 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 30-114. Sidewalk café regulations.**

The permit holder for a sidewalk café shall comply with the following regulations:

- (a) The sidewalk café area and adjoining sidewalk areas shall remain clear of litter,

food scraps, grease, and soiled dishes. All flooring areas must be cleaned daily, including adjacent sidewalk areas.

- (b) The sidewalk café shall be continuously supervised by employees of the licensed establishment.
- (c) Alcohol or cereal malt beverages may not be served within the permitted area, unless the following conditions are met:
  - (1) Pursuant to Chapter 4 of the city code, either:
    - (i) The sidewalk café is located upon city property adjacent to 12<sup>th</sup> Street in the C-3 Aggieville Business District and designed for use as a sidewalk café; or
    - (ii) The governing body approves an ordinance granting an exemption for the possession and consumption of alcoholic liquor or cereal malt beverages on the specified city property upon which the sidewalk café will be located. The permit holder shall pay for the publication costs of an ordinance granting exemption for the possession and consumption of alcoholic liquor on such property.
  - (2) The permit holder possesses and maintains all required licenses relating to alcoholic liquor or cereal malt beverages, and the permit holder complies with all laws relating to the service of alcoholic liquor or cereal malt beverages within establishment and the permitted area. If the permit holder, or an employee therefor, fails to comply with any law relating to the service of alcoholic liquor or cereal malt beverages, the city may suspend or revoke the sidewalk café permit.
  - (3) Upon making application for a sidewalk café permit, the applicant shall submit a site plan detailing the proposed permitted area. Such site plan shall include a dining area, where alcoholic liquor or cereal malt beverages may be served, sold, possessed and consumed, and may also include a service-only area, where alcoholic liquor or cereal malt beverages may be possessed only by employees of the permit holder to travel between the dining area and the interior premises. The dining area shall be designated with a permanent railing or barrier. The site plan must detail the style, design and color of the railing or barrier, which shall be at least 36 inches high. Openings in the railing or barrier may not exceed five feet in width. If the permitted area includes a service-only area, such area must be visually demarcated, such as by pavement markings. The city may require modification of the applicant's plan to increase safety, to improve passage, to prevent damage to the city's right-of-way, or to maintain a style consistent with the surrounding area.
  - (4) Alcoholic liquor or cereal malt beverages may not be served, sold, or consumed within the service-only area, or anywhere outside of the dining area designated by the permanent railing or barrier.
  - (5) Alcohol may not be served, sold or consumed within the permitted area after 11 p.m. or before 8 a.m.
- (d) The sidewalk café shall meet the requirements of the Riley County Health Department, and all other state and local laws pertaining to the service of food. The permit holder shall possess and maintain a valid license for food service

as required by state and local laws.

- (e) All required building modifications shall be completed prior to the commencement of the operation of the sidewalk café.

**Section 3.** This ordinance shall take effect upon publication in the official city newspaper.

**PASSED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS, THIS 17<sup>TH</sup> DAY OF NOVEMBER, 2020.**

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**Usha Reddi, Mayor**

**ATTEST:**

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**Brenda K. Wolf, CMC, Clerk**

(PUBLISHED IN *THE MANHATTAN MERCURY* ON - - NOVEMBER 22, 2020)

## **ORDINANCE NO. 7511 SUMMARY**

On November 17, 2020, the City of Manhattan, Kansas adopted the following ordinance:

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF ARTICLE I OF CHAPTER 4 AND ARTICLE IV OF CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, RELATING TO ALCOHOLIC BEVERAGES, PUBLIC ASSEMBLIES, BLOCK PARTIES AND OTHER SPECIAL EVENTS.**

The Ordinance amends Chapter 4, Article 1 related to possession and consumption of alcohol on City-owned property located adjacent to 12th Street in the C-3 Aggieville Business District and designed for use as a sidewalk café. The complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 1101 Poyntz Ave., Manhattan, KS 66502, Monday – Friday, 8 a.m. – 5 p.m., and is available for at least one week following the publication date of this summary at [www.cityofmhk.com](http://www.cityofmhk.com). This Summary certified to be legally accurate and sufficient by City Attorney Katharine Jackson.

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City Attorney

Date certified: \_\_\_\_\_