

Memorandum
City of Lawrence
City Attorney's Office

TO: Dave Corliss, City Manager
FROM: Chad J. Sublet, Assistant City Attorney
Cc: Toni Wheeler, City Attorney
DATE: Tuesday, May 15, 2012
RE: Habitual Public Nuisance

I. Overview

The Taste, L.L.C., doing business as the "Taste" is a drinking establishment located at 804 W. 24th Street in Lawrence, Kansas, 66046 and possesses City of Lawrence Drinking Establishment License No. 11-00016181 (Attachment A) and State of Kansas Drinking Establishment License No. 10-016-3253-01 (Attachment B). The Taste is currently operated by Mr. Lee Riley. Mr. Riley resides at 837 Eastgate Dr. in Topeka Kansas and is listed by the Kansas Secretary of State as the registered agent of service for the Taste. (Attachment C: 2 pages). The Taste formed On July 19, 2010, and is currently listed as a delinquent corporation with the Secretary of State. (Attachment C: 2 pages).

Marcus Anderson had allegedly been involved as a partner with the Taste, but on March 16, 2012, Mr. Anderson informed the City he was dissolving his partnership with the Taste. (Attachment D). Additionally, on April 24, 2012, Mr. Riley informed City Staff that Mr. Anderson had dissolved his partnership with the Taste earlier in 2012. Finally, Marcus Anderson does not appear anywhere on the Secretary of State Website in relation to the Taste. (Attachment C: 2 pages).

On April 24, 2012, Mr. Riley informed the City he was currently operating the Taste, but was planning to surrender the Taste's liquor license prior to the May 15, 2012, City Commission meeting.

At the April 24, 2012, meeting, City Staff advised Mr. Riley that due to the ongoing violent criminal activity taking place at the Taste that endangers the life, health, and safety of patrons, employees, and the citizenry of Lawrence, staff would make the following recommendations to the City Commission at the May 15, 2012, City Commission meeting:

- (A) Revoke the Taste's City of Lawrence Liquor License pursuant to Ch. 4, Sec. 4-115(E) of the Code of the City of Lawrence, January 1, 2011; and

(B) Recommend that the Director of the State of Kansas Alcohol Beverage Control hold a hearing to determine whether the Taste's liquor license should be revoked or suspended based on reasonable Cause pursuant to K.S.A. 41-2651(C).

In response, Mr. Riley informed Staff that he would cease operations at the Taste prior to May 15, 2012. Staff informed Mr. Riley that they would continue to pursue the above stated action until notified by Alcohol Beverage Control that the Taste has surrendered its liquor license. Staff also informed Mr. Riley of the above by sending a letter to Mr. Riley by United States Postal Mail. (Attachment E: 3 pages), email (Attachment F: 3 pages), and by posting a copy on the entrance of the Taste on April 27, 2012.

II. Local regulation of Drinking Establishments¹

It is unlawful for any person to sell or serve any alcoholic liquor within the City without first obtaining a local license from the City Clerk in addition to a Liquor License granted by the State of Kansas. Ch. 4, Art. 1, Sec. 4-109 of the Code of the

¹ The following will also be presented as a power point presentation discussing the Commission's authority to act in declaring the Taste a Habitual Public Nuisance, revoking the Taste's City of Lawrence Liquor License and requesting that the Director of the State of Kansas Alcohol Beverage Control Division hold a hearing to determine if reasonable cause exists to revoke or suspend the Taste's State of Kansas Liquor License for Reasonable Cause (Attachment H: 3 pages).

City of Lawrence, January 1, 2011. (See also *Kansas Attorney General Opinion 96-55*). (Attachment G: 3 pages)

The Code of the City of Lawrence, Kansas 2011 Edition, contains the basic framework vesting the City Commission with their power and authority to issue, review, suspend and revoke a drinking establishment's City liquor license. Ch.1, Art.1, Sec. 1-106 of the Code of the City of Lawrence, January 1,2011 (Attachment I) states that:

“All Powers exercised by cities of the first class, or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law.”

Ch.1, Art. 1, Sec. 1-102(F) (Attachment J: 2 pages) defines the governing body of the City of Lawrence as the City Commission of the City of Lawrence. Therefore, when read together, Ch.1, Art. 1, Sections 1-102(F) and 1-106 grant the City Commission with the authority as the governing body to issue, review, suspend and revoke a drinking establishment's liquor license if that process is contained within the Code of the City of Lawrence 2011 edition and not otherwise limited by law.

The qualifications for a City Liquor License are set forth in Ch. 4, Art. 1, Sec. 4-108 of the Code of the City of Lawrence, January 1, 2011, (Attachment K) outlines the process for a drinking establishment to qualify for a City Liquor License:

- (A) The Governing Body of the City shall, if the applicant is qualified by law, issue a license to the applicant.
- (B) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of K.S.A. 41-2601 et seq (Attachment L: 2 pages).
- (C) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of Section 4-112. (Ord. 6296). Attachment M)

Specifically, an applicant must be in compliance with K.S.A. 41-2601 et seq., which is the State of Kansas regulation for the sale of intoxicating liquors and beverages. Therefore, an applicant cannot be held in violation of any provisions of K.S.A. 41-2601 et seq., and be issued a City liquor license. Additionally, if an applicant is currently suspended or revoked from having a City Liquor License or has a Misdemeanor conviction for violating the City of Lawrence's liquor laws listed in Art. 4 of the City Code, the applicant cannot be issued a City Liquor License pursuant to Ch. 4, Art. 1, Sec. 4-108.

In addition to the granting of a City Liquor License, Ch. 4, Art. 1, Sec. 4-109 of the Code of the City of Lawrence, January 1, 2011(Attachment N: 2 pages) specifically gives the City Commission the authority to regulate businesses relating to “alcoholic liquor.” Ch. 4, Art. 1, Sec. 4-109(A), deals specifically with the issue of preemption and states that:

“No person shall have any alcoholic liquor in his or her possession while in the place of business, *unless* the premises are currently licensed under a license issued by the State Director of Alcoholic Beverage Control.”

This is another example of the type of “limitation as prescribed by law” contemplated in Ch.1, Art.1, Sec. 1-106. The City of Lawrence can issue a City Liquor License, collect fees for such a license, and penalize businesses for violation of local ordinances. However, the City cannot allow consumption of alcohol in a business through a City Liquor License unless that business has a State of Kansas Liquor License. The City of Lawrence cannot prevent consumption of alcohol in a business that has a valid State of Kansas Liquor License. As long as the City requirements do not conflict with the State requirements the City’s regulation is valid. This concept is embodied in the remainder of the business regulation power vested in the City Commission contained in Ch. 4, Art. 1, Sec. 4-109(B)-(E):

(B) No one under twenty-one (21) years of age shall consume or be served alcoholic liquor and a sign so stating shall be prominently posted in all such places;

(C) No licensee, or his or her agent or employee, shall allow the serving, mixing or consumption of alcoholic liquor on his or her premises between the hours of 2:00 a.m. and 9:00 a.m. on any day; except as established by Section 4-114.

(D) Cereal malt beverage may be sold on the premises licensed for retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(E) No licensee, or his or her agent or employee, shall sell, give, trade, or permit the sale, give or trade of any alcoholic liquor to any person under twenty-one (21) years of age. (Ord. 6296)

Ch. 4, Art. 1, Sec. 4-109(B)-(E), are all business regulations that support and do not directly conflict with State regulations therefore they are appropriate business regulations that the City Commission is vested with carrying out.

As mentioned earlier, the Commission is also vested with the power to declare a drinking establishment a public nuisance and suspend, or revoke a drinking establishment's liquor license.

Ch. 4, Art.1, Sec., 4-116 of the Code of the City of Lawrence, January 1, 2011 (Attachment O: 2 pages) vests the City Commission with the Authority to

declare a drinking establishment a Habitual Public Nuisance. A Habitual Public

Nuisance is defined in Ch. 4, Art.1, Sec., 4-116(A) as:

Operating in a manner that habitually harms the public health, safety or welfare of the general public, neighboring properties or occupants of neighboring properties, or patrons. *Habitual public nuisances are hereby prohibited.*

Ch. 4, Art.1, Sec., 4-116(B)(1) and (2) (Attachment O: 2 pages) states that a Habitual Public Nuisance shall only be determined to exist if the City Commission makes the following findings:

- (1) The harm to the public health, safety or welfare can be fairly attributed to the operation of the private club or drinking establishment. The proximity of other licensed premises or similar facilities shall be considered by the Commission in making this finding; **and**
- (2) The harm to the public health, safety or welfare is of a habitual nature, and not limited to isolated incidents of an infrequent occurrence.

Only after making the findings that the harm is habitual and not isolated and is attributed to the drinking establishment in question, can the City Commission find that a drinking establishment is a Habitual Public Nuisance. If the Commission makes the determination that a drinking establishment is a Habitual Public Nuisance, they move onto the penalty phase contained in Ch. 4., Art. 1,

Sec. 4-116(C)(1) and (2). (Attachment O: 2 pages) During the penalty phase, the

City Commission must consider the following factors:

(1) Actions taken by ownership to mitigate or eliminate harm; **and**

(2) Whether violations of law involved employees of the drinking establishment.

One possible penalty may be the recommendation that the City Commission revoke the drinking establishment's City Liquor License under Ch. 4, Art. 1, Sec 4-115(E) of the Code of the City of Lawrence, January 1, 2011.

(Attachment O: 2 pages), In accordance with Ch. 4, Art. 1, Sec 4-115(E), the City Commission may suspend or revoke a City Liquor License if the following has taken place:

(E) Determination that private club or drinking establishment is a habitual public nuisance as defined by Section 4-116

In addition to the foregoing steps to suspend or revoke a City Liquor License, at any time, the governing body of any city or county may request that the Director of the State of Kansas Alcohol Beverage Control hold a hearing to determine whether any license issued pursuant to the Kansas Intoxicating Liquors and Beverages Act should be revoked or suspended. The governing body shall

provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause. K.S.A. 41-2651(C). (Attachment P).

In determining if reasonable cause exists to hold a hearing, the Director considers rules and regulation promulgated by the Secretary. K.S.A. 41-2651(C). K.A.R. 14-21-22(e) (Attachment Q) is the regulation outlining the evidence to be considered in determining if a drinking establishments liquor license should be revoked or suspended and includes the following:

- 1) A crime of violence has occurred in, on, or about the premises, arising from conduct occurring within the licensed premises.
- (2) The licensed premises and surrounding areas under relative control of the licensee constitute an abnormal and unreasonable drain on public resources to secure the safety of patrons, local residents, and businesses.
- (3) The licensed premises, including surrounding areas under relative control of the licensee, constitute a threat to public health, safety, and welfare.
- (4) The governing body has filed one or more nuisance actions against the licensee or the licensed premises.
- (5) The governing body or licensee has taken all reasonable

remedial steps regarding the situation.

Section II has outlined the authority of the City Commission to act upon information presented regarding the Taste. The remainder of the memorandum will outline facts relating to activities taking place at the Taste. At the end of this memorandum City Staff will be asking that you:

- (1) Find that the Taste is a Habitual Public Nuisance in accordance With Ch. 4., Art. 1, Sec. 4-116(B)(1) and(2); and
- (2) As punishment for being a Habitual Public Nuisance, recommend revocation of the Taste's City Liquor license under Ch. 4, Art. 1, Sec 4-115 ; and
- (3) Revoke the Taste's Liquor License under Ch. 4, Art. 1, Sec 4-115 (E); and
- (4) Pursuant to K.S.A. 41-2651(C) Request that the Director of Alcohol Beverage Control Hold a hearing to determine if the Taste's State Liquor License should be revoked.

III. The Taste is a habitual Public Nuisance in accordance with Ch. 4., Art. 1, Sec. 4-116(B)(1)and(2)

The Taste operates in a manner that continues to habitually harm the public health, safety and welfare. Moreover, patrons and employees of the Taste are in danger by simply working or patronizing the Taste. Since opening in July of 2010

(Attachment C), the Taste has been the scene of multiple shootings, sex crimes and batteries.

A direct relationship exists between operations at the Taste and threats to the citizens of Lawrence. Below are some limited examples of the types of violent crimes that are *alleged* to have occurred at the Taste.

2010 (23 total calls for service in 6 months)

- Alleged Battery of a 23 year-old female: A fight ensued at the Taste in which a 23 year-old female was allegedly attacked inside the bar. The attack allegedly continued outside of the bar into the parking lot. The victim fled the Taste in her vehicle and was chased by her alleged assailant in the assailant's vehicle until stopped by the LKPD. At no time did employees from the Taste contact the LKPD prior to the car stop.

2011 (68 total calls for service)

- Alleged Aggravated Battery with Intent to Cause Bodily Harm with a Deadly Weapon: A patron of the Taste allegedly got into a physical altercation inside the drinking establishment and was knocked to the ground. The patron went to his vehicle and allegedly retrieved a handgun, and proceeded to walk back into the Taste but another individual saw the firearm. The patron went back to his car and allegedly drove by the front of the Taste where he allegedly fired shots at individuals gathered in the front of the establishment. Two separate firearms

were retrieved. The Suspect in this case has been Federally Indicted for being a Felon in Possession of a Firearm.

- Alleged Aggravated Assault with Intent to Commit a Felony: A large crowd of patrons of the Taste had gathered in the parking lot. A Taste employee saw two people run from the crowd. The two subjects allegedly returned with handguns and began shooting. A fight ensued within the crowd and shots were fired into the crowd. A .380 Llama semiautomatic pistol was recovered at the scene along with numerous cartridge cases. Additionally, a 25 Auto Caliber Cartridge case was recovered in the parking.
- Alleged Rape and Sodomy of a female under the age of 21: A female under the age of 21 was allegedly allowed to enter the Taste by one of the managers. While in the establishment, she was allegedly given a bottle of alcohol by one of the establishment's employees with management responsibilities. The victim was then allegedly taken to a VIP room by a Taste employee where she was allegedly raped and sodomized by a Taste employee.
- Alleged Battery: A 25 year-old female was allegedly attacked by a male patron of the Taste. The victim had exited the Taste and, while in the parking lot, the victim's ex-boyfriend allegedly assaulted her by punching her in the face numerous times until one of the victim's friends pulled the attacker from the victim.

- Alleged possession of Marijuana and a stolen handgun with ammunition: LKPD officer was patrolling the parking lot of the Taste and observed an individual unconscious in a vehicle. Inside the vehicle, the officer allegedly found a bag of Marijuana and a handgun that was reported as stolen out of Topeka.

2012 (12 calls for service)

- Alleged Rape: After the Taste had closed, three male employees of the Taste picked up a female at another drinking establishment in Lawrence. At approximately 2:30 am, the males unlocked the Taste and served the female liquor and proceeded to allegedly forcibly rape her.
- Aggravated Battery with a Deadly Weapon: A patron of the Taste got into an altercation with a Taste employee inside the establishment over a tip jar. The patron exited the establishment and, returned, and shot a Taste employee in the leg with a handgun.
- Domestic Battery: A physical altercation allegedly occurred between a husband and wife inside the Taste. During the course of the altercation the wife allegedly suffered a broken nose and two black eyes.

IV. The Taste is responsible for a disproportionate number of calls for service and is a disproportionate drain on City resources.

In addition to being the scene of violent criminal conduct, the operation of the Taste is a source of continuous harm to the safety and welfare of the employees of the

Taste, their patrons and citizens of Lawrence who may be in the vicinity of the Taste.

Additionally, the Taste is a disproportionate drain on City resources.

Between January 1, 2011 and April 1, 2012 there have been 75 calls for service (CFS) at the Taste. Below is a chart categorizing the types of calls:

Calls From 01/01/2011-04/01/2012	Number of Calls
Alcohol Complaint	1
Animal Call	2
Bar Check	15
Batteries	5
Building Check	16
Criminal Damage	1
Check Welfare	1
Process Service	1
Disturbance	6
Disturbance with weapon	1
Domestic Disturbance	1
Narcotics	2
Parking Violations	5
Request to speak with officer	9
Sex Crimes	2
Shooting	1
Theft	2
Criminal Threat	1
Trespassing	1
Urination in Public	1

The Taste is responsible for a disproportionate number of CFS compared to other drinking establishments within the City of Lawrence. There are 120 licensed drinking establishments within the City of Lawrence. Each drinking establishment averaged 19.8

CFS between January 1, 2011 and April 1, 2012 compared with the 75 CFS at the Taste. To put it in perspective, the way in which the Taste operates uses 379% more law enforcement resources than the average drinking establishment within the City of Lawrence.

V. The proximity of other licensed premises or similar facilities

In determining whether a drinking establishment is a Habitual Public Nuisance in accordance with Ch. 4., Art. 1, Sec. 4-116(B)(1) and(2) , the commission is to consider the proximity of other licensed facilities that may be contributing to the problem. (Attachment R). The closest establishments to the Taste are Carlos O'Kelly's and the Thai House restaurant. Both establishments are primarily food service establishments. Over the last fifteen months, by way of comparison, Carlos O'Kelly's has had 12 CFS and Thai House has had three. Both establishments are well below the City average and none of the calls involved a violent crime.

The Taste is in a unique position as a drinking establishment within the City of Lawrence. The establishments located nearest to the Taste are what would be considered primarily eating establishments and do not account for the violent nature of the crimes occurring at or near the Taste. As an example, the CFS generated by the LKPD crime analyst were located by correlating the call with the address of the Taste. If the incident began at Thai House or Carlos O'Kelly's and spilled over to the Taste that would be captured in a report and accounted for in the reporting mechanism. The calls included in this memorandum are fairly attributed to the operation of the Taste as a

drinking establishment as required to be found pursuant to Ch. 4., Art. 1, Sec. 4-116(B)(1) . The Taste is not an establishment surrounded by other drinking establishments where one has to ferret out the cause and origin of the problem.

The problems at the Taste are not of an isolated nature and are habitual. There is no definition of habitual in Ch. 4, Art. 1, Sec 4-116. However, Ch. 4, Art. 1, Sec 4-115 (D) (Attachment O) defines habitual in reference occupancy limits as *three or more* violations within a twelve (12) consecutive month period.

Additionally, the Kansas legislature has defined habitual violator in K.S.A. 8-285 (Attachment S) as having *three or more* convictions in the previous five years of any of the following:

- (1) Vehicular Homicide;
- (2) Driving Under the Influence;
- (3) Driving on a suspended or revoked license;
- (4) Perjury;
- (5) Failure to properly register a vehicle;
- (6) Any felony involving a vehicle
- (7) Failing to report an accident;
- (8) Failing to maintain vehicle liability coverage

Finally, K.S.A. 21-4642(c)(1), (Attachment T: 2 pages) defines an aggravated habitual sex offender as an offender who has *two prior convictions* for any sexually violent crime after July 1, 2006 prior to the current conviction.

Based on the above definitions of habitual, it is reasonable to conclude that three events are considered habitual. Additionally, it appears the more serious the crime, the more broad the time period becomes for a series of criminal acts to become habitual.

This is not a case where there was a fight between two criminal enterprises that resulted in a shooting over a weekend. There have been three shooting's since October 9, 2011, making crimes involving firearms a habitual event at the Taste no matter which of the above definitions of habitual one chooses to adopt.

Additionally, batteries and sexual assaults are not of a limited nature. These types of crimes have occurred consistently since the Taste's inception in July of 2010.

In six months of operations in 2010 there were 23 CFS at the Taste. The numbers have continued to grow and in 2012, there has already been a reported shooting and a reported rape indicating that violent criminal activity will continue at the Taste.

VI. The Management of the Taste have not mitigated the harm to the public and have been complicit in the threat to public safety

Based on the criminal activity taking place at the Taste, and the ongoing threats to the public, the operational strategy of Taste management has been ineffective. On at least two different occasions, captains from the LKPD have attempted to talk with the owners and managers of the Taste and have been met with resistance. Management of the Taste has attempted to blame the LKPD for the problem and made allegations that the LKPD has targeted the Taste. (Attachment U: 3 pages). On occasion, employees of the Taste have attempted to intimidate officers to the point that numerous officers of the LKPD have had to respond to safely enforce local laws and ordinances.

In late April of 2012, Charles Branson, the Douglas County District Attorney , contacted the City Attorney to inform her of the problems they were having serving witnesses with subpoenas at the Taste. According to Mr. Branson, Employees of the Taste had been uncooperative with the investigation of the shooting of a Taste employee.

On April 24, 2012, City Manager Dave Corliss, City Attorney Toni Wheeler, Assistant City Attorney Chad Sublet, Chief of Police Tarik Khatib, and Lawrence Police Department Captain William Cory all met with Mr. Riley to discuss the City's concerns regarding the Taste. Mr. Riley stated that he did not go into business to be in the newspaper like this. He stated that he was going to walk away from the business. Mr. Riley stated that he planned to meet with his attorneys the week of April 23rd and that he would be

surrendering his liquor license. Mr. Riley denies being uncooperative. Mr. Riley claims he calls the police, but admits he has been uninvolved with the day to day operations of the Taste as of late.

The Taste is and continues to be a danger to the community. The LKPD has attempted to work with management and employees of the Taste and those efforts have been ineffective. Instead of improving, the situation has deteriorated with serious criminal activity continuing to take place and requiring the expenditure of significant law enforcement resources. Operationally, the Taste has created an environment lending itself to violent criminal activity that threatens the citizens of Lawrence and management has shown no willingness to change how they operate.

VII. Action Requested

Staff recommends that the Commission makes the following findings pursuant to Ch. 4, Art. 1, Sec. 4-116(B)(1) and (2) of the Code of the City of Lawrence:

- (1) The Taste operates in a manner harmful to the public health, safety and welfare; **and**
- (2) The harm to the public health, safety or welfare is of a habitual nature not limited to isolated incidents of an infrequent occurrence;

Staff recommends that, after the Commission makes the appropriate findings pursuant to Ch. 4, Art. 1, Sec. 4-116(B)(1) and (2) of the Code of the City of

Lawrence, the Commission find that the Taste LLC., is a Habitual Public Nuisance in accordance with Ch. 4, Art. 1, Sec. 4-116(A) of the Code of the City of Lawrence

Staff recommends that, pursuant to Ch. 4, Art. 1, Sec. 4-116(C)(1) and (2) of the Code of the City of Lawrence, that the City Commission recommend that the Taste's City Liquor License be revoked pursuant to Ch. 4, Art. 1, Sec. 4-115(E) as an appropriate penalty.

Staff recommends that pursuant to Ch. 4, Art. 1, Sec. 4-115 of the Code of the City of Lawrence, the City Commission revoke the Taste's City Liquor License based on the following findings:

- (1) The Taste is a Habitual Public Nuisance in accordance with Ch. 4, Art. 1, Sec. 4-116(E) of the Code of the City of Lawrence.

Finally, Staff recommends that, in accordance with K.S.A. 41-2651, the City Commission inform the Director of the Division of Kansas Alcohol Beverage Control that reasonable cause exists to hold a hearing to determine if the Taste's State Liquor License should be revoked.

ATTACHMENT A



City of Lawrence
KANSAS

City Hall, 6 E. 6th Street
Lawrence, KS 66044

Issued To

Date Issued

October 06, 2011

TASTE
804 W 24TH ST

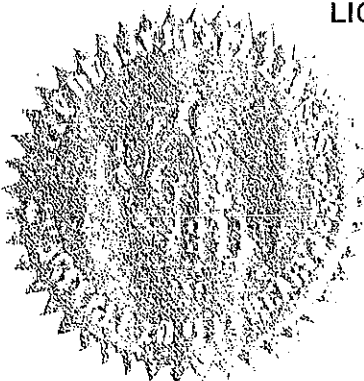
LAWRENCE KS 66046-4417

LOC: 804 W 24TH ST
LAWRENCE KS 66046-4417

LICENSE TYPE:	DRINKING ESTABLISHMENT
---------------	------------------------

LICENSE YEAR: October 06, 2011 TO October 05, 2013

LICENSE NO: 11-00016181




CITY CLERK

KEEP THIS LICENSE POSTED CONSPICUOUSLY AT ALL TIMES

NOTICE: This license becomes NULL and VOID if ownership, business name, or address is changed. The mistake issuance of a license shall not be deemed to be a WAIVER of any provision of the City Code nor shall the issuance of a license be construed to be a judgment of the City as to the competence of the applicant to transact the licensed business.

ATTACHMENT B

Kansas Alcoholic Beverage Control Division
Liquor License

DRINKING ESTABLISHMENT

OWNER NAME: TASTE LLC
DBA NAME: TASTE
ADDRESS: 804 W 24TH ST
CITY, ZIP: LAWRENCE 66046

LICENSE NO: 10-016-3253-01

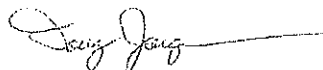
The licensee named above has been granted a liquor license by the Kansas Department of Revenue, Alcoholic Beverage Control Division. This license is neither transferable nor assignable and is subject to suspension or revocation.

PRIVILEGES:

Allows the licensee to sell and serve alcoholic liquor for consumption on the licensed premises and other activities as authorized by K.S.A. 41-2642.

AGREEMENT:

By accepting this license, the licensee agrees to conduct business in compliance with all applicable federal, state, county and city statutes and regulations.

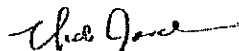


Doug Jorgensen
Director, Alcoholic Beverage Control



Department of Revenue

Alcoholic Beverage Control



Nick Jordan
Secretary of Revenue

EFFECTIVE: 10/06/2011

EXPIRES: 10/05/2013

THIS LICENSE MUST BE FRAMED AND POSTED ON THE PREMISES IN A CONSPICUOUS PLACE

IMPORTANT INFORMATION

Contact the ABC Licensing Unit at 785-296-7015 or email abc.licensing@kdor.ks.gov if you have any:

- questions regarding this license
- changes to your business name, location, ownership or officers
- questions about filing gallonage tax; if applicable

Contact your local ABC Enforcement Agent at 785-296-7015 or visit our website at <http://www.ksrevenue.org/abcontact.html>

Contact the Miscellaneous Tax Segment at 785-368-8222 or email miscellaneous.tax@kdor.ks.gov if you:

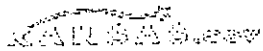
- need assistance with liquor drink or liquor enforcement taxes
- have questions about liquor drink tax bonds, bond relief or bond release

CLOSING YOUR BUSINESS

If you are closing your business, you must surrender your liquor license and complete the information on the back of the license.

ATTACHMENT C

[Home](#) | [Contact](#) | [FAQs](#)



Thinking | Starting | Maintaining | Closing

Business Entity Search

Date: 05/07/2012

Business Information

Current Entity Name

TASTE LLC

[File Name Change Online](#)

Business Entity ID Number

4432654

Current Mailing Address: LEE RILEY - 837 EASTGATE DR, TOPEKA, KS 66607 [Update](#)

Business Entity Type: KANSAS LTD LIABILITY COMPANY

Date of Formation in Kansas: 07/19/2010

State of Organization: KS

Current Status: CORPORATION IS DELINQUENT

[Certificate of Good Standing](#)

Resident Agent and Registered Office

Resident Agent: LEE RILEY

Registered Office: 837 EASTGATE DR., TOPEKA, KS 66607

[Update Resident Agent/Office](#)

Annual Reports

The following annual report information is valid for active and delinquent status entities only.

Tax Closing Month: 12

The Last Annual Report on File: 00/0000

Next Annual Report Due: 04/15/2012 [File Online](#)

Forfeiture Date: 07/15/2012

[Close Your Business](#)

[View History and Documents](#)

[Kansas.gov](#) | [Policies and Statements](#) | [Help Center](#) | [Survey](#)

Copyright © 2002-2009

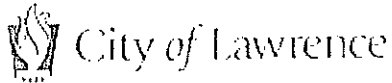
ATTACHMENT D

Jonathan Douglass

From: Diane Trybom
Sent: Friday, March 16, 2012 10:03 AM
To: Sherri Riedemann
Cc: Jonathan Douglass
Subject: Taste - 804 West 24th

Hi Sherri

I received a phone call on March 15, 2012, from a person that identified himself as Marcus Anderson. He wanted to inform the City that he was dissolving his partnership with Taste LLC. I asked Marcus to send the City Clerk's Office an email that that was his intention and any other information related so the City Clerk's Office had record and that we would place the record in the Taste Drinking Establishment file.



Diane M. Trybom, *Deputy City Clerk*
City Clerk's Office
Office (785) 832-3308 | Fax (785) 832-3305
dtrybom@lawrenceks.org | [City of Lawrence, KS](http://CityofLawrence.org)
P.O. Box 708, Lawrence, KS 66044

ATTACHMENT E



City of Lawrence KANSAS

CITY COMMISSION
MAYOR
ROBERT J. SCHUMM
COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

DAVID L. CORLISS
CITY MANAGER

City Offices
Box 708 66644-0708
TDD 785-832-3235
www.lawrenceks.org

6 East 6th
785-832-3000
FAX 785-832-3405

April 27, 2012

Mr. Lee Riley
Taste, L.L.C.
837 Eastgate Drive
Lawrence, KS 66607

Re: May 15, 2012 City Commission Meeting

Dear Mr. Riley:

Thank you for meeting with City Manager David Corliss, Chief of Police Tarik Khatib, Captain William Cory, Assistant City Attorney Chad Sublet and me on Tuesday, April 24, 2012, to discuss our public safety concerns with Taste. As we discussed, we are preparing to recommend to the City Commission at its regular meeting on May 15, 2012, that Taste's city liquor license be revoked. We will also seek authorization from the governing body to request a hearing before the Alcohol Beverage Control (ABC) to determine whether Taste's license issued under the Club and Drinking Establishment Act should be revoked or suspended pursuant to K.S.A. 41-2651.

You and/or your representative will have an opportunity to address the City Commission when it considers these items at the May 15th meeting. At that time you may present information or evidence to rebut the City staff's position that your city liquor license should be revoked. You may also present information or evidence to counter the City's request for a hearing before the ABC. My office's report on the matter will be available to you in advance of the meeting. This report will also be available to the general public on the City's website, www.lawrenceks.org on or about Thursday, May 10, 2012. I am available to speak with you and/or your attorney, or other representative in advance of May 15th to discuss how City Commission meetings operate. Our meetings begin at 6:35 p.m. and are held in the City Commission meeting room on the first floor of City Hall, 6 East 6th Street.

You indicated that it is your intention to cease operations at Taste before May 15, 2012. If the City receives evidence that Taste's state liquor license has been surrendered to state officials before 12:00 p.m. (noon) on May 10, 2012, the City will likely defer or table the City Commission action on Taste's local and state liquor licenses.



Mr. Lee Riley
April 27, 2012
Page 2

As discussed at our meeting on April 24th, 2012, the safety of the public and our law enforcement officers is the City's paramount concern, and that is why we are taking the actions set forth above. If you have any questions or concerns, please do not hesitate to contact me at (785) 832-3404, or by email at twheeler@lawrenceks.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Toni R. Wheeler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Toni R. Wheeler
City Attorney

cc: David L. Corliss, City Manager
Tarik Khatib, Chief of Police



City of Lawrence

CITY ATTORNEY'S OFFICE

DAVID L. CORLISS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

May 2, 2012

Mr. Lee Riley
Taste, L.L.C.
837 Eastgate Drive
Topeka, KS 66607

Re: May 15, 2012 City Commission Meeting

Dear Mr. Riley:

Enclosed please find a letter I sent to you dated April 27, 2012. I inadvertently listed Lawrence in your address rather than Topeka. In the event the earlier letter did not reach you by U.S. mail, I am forwarding it to you now. Please accept my apologies for any inconvenience this may have caused. I did send the earlier letter to you by electronic mail to newtastebar@gmail.com, and by posting it on the door of Taste, on April 27th.

Sincerely,

Toni R. Wheeler
City Attorney

Encl.



ATTACHMENT F

Chad Sublet

From: Chad Sublet
Sent: Friday, April 27, 2012 1:27 PM
To: 'newtastebars@gmail.com'
Cc: Toni Wheeler
Subject: Follow-Up to our meeting
Attachments: 20120427103546506.pdf

Dear Mr. Riley,

Attached is a letter that was also sent by U.S. Mail to the address you supplied to the City of Lawrence at our meeting on April 24, 2012. After reviewing the letter, if you have any questions please do not hesitate to contact myself or City Attorney Toni Wheeler.

Sincerely,

Chad J. Sublet, Assistant City Attorney csublet@lawrenceks.org City Attorney's Office | City of Lawrence, KS P.O. Box 708, Lawrence, KS 66044 office (785) 832-3470 | fax (785) 832-3405



City of Lawrence KANSAS

CITY COMMISSION
MAYOR
ROBERT J. SCHUMM
COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROWWELL

DAVID L. CORLISS
CITY MANAGER

City Offices
Box 708 56014-0708
TDD 785-832-3205
www.lawrenceks.org
6 East 6th
785-832-3600
FAX 785-832-3405

April 27, 2012

Mr. Lee Riley
Taste, L.L.C.
837 Eastgate Drive
Lawrence, KS 66607

Re: May 15, 2012 City Commission Meeting

Dear Mr. Riley:

Thank you for meeting with City Manager David Corliss, Chief of Police Tarik Khatib, Captain William Cory, Assistant City Attorney Chad Sublet and me on Tuesday, April 24, 2012, to discuss our public safety concerns with Taste. As we discussed, we are preparing to recommend to the City Commission at its regular meeting on May 15, 2012, that Taste's city liquor license be revoked. We will also seek authorization from the governing body to request a hearing before the Alcohol Beverage Control (ABC) to determine whether Taste's license issued under the Club and Drinking Establishment Act should be revoked or suspended pursuant to K.S.A. 41-2651.

You and/or your representative will have an opportunity to address the City Commission when it considers these items at the May 15th meeting. At that time you may present information or evidence to rebut the City staff's position that your city liquor license should be revoked. You may also present information or evidence to counter the City's request for a hearing before the ABC. My office's report on the matter will be available to you in advance of the meeting. This report will also be available to the general public on the City's website, www.lawrenceks.org on or about Thursday, May 10, 2012. I am available to speak with you and/or your attorney, or other representative in advance of May 15th to discuss how City Commission meetings operate. Our meetings begin at 6:35 p.m. and are held in the City Commission meeting room on the first floor of City Hall, 6 East 6th Street.

You indicated that it is your intention to cease operations at Taste before May 15, 2012. If the City receives evidence that Taste's state liquor license has been surrendered to state officials before 12:00 p.m. (noon) on May 10, 2012, the City will likely defer or table the City Commission action on Taste's local and state liquor licenses.



Mr. Lee Riley
April 27, 2012
Page 2

As discussed at our meeting on April 24th, 2012, the safety of the public and our law enforcement officers is the City's paramount concern, and that is why we are taking the actions set forth above. If you have any questions or concerns, please do not hesitate to contact me at (785) 832-3404, or by email at twheeler@lawrenceks.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Toni R. Wheeler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Toni R. Wheeler
City Attorney

cc: David L. Corliss, City Manager
Tarik Khatib, Chief of Police

ATTACHMENT G

[Skip Navigation](#)



[Opinion Number List](#) | [Download WordPerfect version](#) (16530 bytes)

| Search By: [Number](#) | [Date](#) | [Requestor](#) | [Topic](#) | [Synopsis](#) | [Attorney General](#) | [Author](#) | [Fulltext](#) |

June 19, 1996

ATTORNEY GENERAL OPINION NO. 96-55

Ken W. Strobel, City Attorney
P.O. Box 39
Dodge City, Kansas 67801

Re: Intoxicating Liquors and Beverages--Licensing and Related Provisions;
City Option--Power to Regulate Alcoholic Liquor; City's Authority to
Issue Retail Liquor Store License

Synopsis: The liquor control act preempts the field of liquor control in the areas of manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer. However, there are areas of liquor control that are not vested exclusively in the state and a city may regulate in those areas provided such regulation does not conflict with the act. A city ordinance requiring a retail liquor store license which may then be suspended or revoked for furnishing alcohol to a minor is not preempted by the liquor control act because it does not significantly affect liquor traffic nor does it conflict with the act. Cited herein: K.S.A. 21-3610; 41-208; 41-301; 41-302; 41-310; K.S.A. 1995 Supp. 41-346.

* * *

Dear Mr. Strobel:

As city attorney you request our opinion concerning the validity of an ordinance that requires a retail liquor store license (in addition to the state license) which may then be suspended or revoked by the city for violation of a city ordinance prohibiting the sale of alcohol to minors.

A city ordinance should be permitted to stand unless an actual conflict exists between the ordinance and a statute, or unless the legislature has clearly preempted the field so as to preclude municipal action. *McCarthy v. City of Leawood*, 257 Kan. 566 (1995). Initially, we must determine whether state law preempts the area of liquor control so as to preclude a city from regulating in this area. In some states the complete and exclusive control of liquor traffic is placed in the state and cities are without authority to interfere with that control. *McQuillin, Municipal Corporations* § 24.165 (3d ed.) However, a state may grant limited control to a city while retaining for itself general control over the sale or other business in alcohol. *Id.*

The Kansas liquor control act, K.S.A. 41-101 *et seq.*, prohibits a person from manufacturing, distributing or selling alcoholic liquor or cereal malt beverages without a state license. K.S.A. 41-2702. For a qualified applicant, the director of alcoholic

beverage control may issue a license to sell alcoholic liquor at retail in the original package within the corporate limits of those cities that either approved the 1948 amendment to article 15, section 10 of the Kansas constitution or have elected to allow the licensing of the sale of packaged alcoholic liquor. K.S.A. 41-301; 41-302. K.S.A. 41-208 provides, as follows:

"The power to regulate all phases of the control of the manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer regardless of its alcoholic content, except as specifically delegated in this act, is hereby vested exclusively in the state and shall be exercised as provided in this act. **No city shall enact any ordinance in conflict with or contrary to the provisions of this act** and any ordinance of any city in effect at the time this act takes effect or thereafter enacted which is in conflict with or contrary to the provisions of this act shall be null and void. **Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed by this act for the same violation.**" (Emphasis added).

In *Blue Star Supper Club, Inc. v. City of Wichita*, 208 Kan. 731 (1972) the Supreme Court concluded that K.S.A. 41-208 gives to the state exclusive power to control and regulate the **traffic** in alcoholic liquor and the manufacture of beer.

"It occurs to us that what the legislature intended by including the preemptive provisions of 41-208 as part of the liquor control act was to give the state exclusive power to control and regulate the **traffic** in alcoholic liquor and the manufacture of beer. To such end it was provided that the power to regulate and control the 'manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer regardless of its alcoholic content' should be vested exclusively in the state." (Emphasis added). *Blue Star Supper Club, Inc.*, 208 Kan. at 733 (1972).

However, K.S.A. 41-208 allows cities to enact ordinances that do not conflict with the act as well as ordinances that penalize the same activities that are proscribed by the act provided that the minimum and maximum penalties do not exceed the penalties in the act.

The concept of preemption is that the state legislative scheme is so comprehensive that there is no room for additional local legislation regardless of whether the local legislation conflicts with the comprehensive legislative scheme.

"The rule denying power to a local body when the state has preempted the field is a rule of necessity based upon the need to prevent dual regulation which would result in uncertainty and confusion; and whether the state has preempted the field to the exclusion of local legislation depends not only on the language of the statutes, but upon the purpose and scope of the legislative scheme." *Missouri Pacific Railroad v. Board of Greeley*

County Commissioners, 231 Kan. 225, 228 (1982).

We conclude that K.S.A. 41-208 preempts the field of liquor control only in the areas of manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer. Because K.S.A. 41-208 allows cities to enact ordinances that do not conflict with the act, the implication is that there are areas of liquor control that are not vested exclusively in the state, and, therefore, a city may regulate in those areas provided that such regulation does not conflict with the act. While the Kansas appellate courts have not delineated those areas it is our opinion that an ordinance requiring a retail liquor store license falls outside of the sphere of exclusive state control because it does not significantly affect liquor traffic.

We turn now to the issue of whether the ordinance at issue conflicts with the liquor control act. Conflict between an ordinance and a statute occurs when an ordinance permits that which a statute prohibits or prohibits that which a statute authorizes. **McCarthy v. City of Leawood**, 257 Kan. 556 (1995). An ordinance which is merely additional to a requirement imposed by state law does not create such conflict. **Leavenworth Club Owner's Association v. City of Atchison**, 208 Kan. 318 (1971).

"Where a municipal ordinance merely enlarges on the provisions of the statute by requiring more than is required by the statute, there is no conflict between the two unless the legislature has limited the requirements for all cases to its own prescription." **Leavenworth Club Owner's Association**, 208 Kan. at 320 (1971).

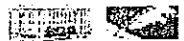
It is our opinion that requiring a city license in addition to a state license does not conflict with the act because the act does not prohibit such license. In fact, the liquor control act specifically allows a city to levy and collect an annual **license** tax which is in addition to the license fee paid to the state. K.S.A. 41-310. As far as a city's ability to revoke or suspend a city retail liquor store license for furnishing alcohol to a minor, we find no conflict in the act which also provides for suspension or revocation of a state license for the same act. K.S.A. 21-3610; K.S.A. 1995 Supp. 41-346.

Very truly yours,

CARLA J. STOVALL
Attorney General of Kansas

Mary Feighny
Assistant Attorney General

CJS:JLM:MF:jm



[Opinion Number List](#) | [Download WordPerfect version](#) (16530 bytes)

| Search By: [Number](#) | [Date](#) | [Requestor](#) | [Topic](#) | [Synopsis](#) | [Attorney General](#) | [Author](#) | [Fulltext](#) |

Comments to: [WebMaster](mailto:WebMaster@ksag.washburnlaw.edu), ksag [at] washburnlaw.edu.

Processed: January 8, 2002.

HTML markup © 2002, Washburn University School of Law.

URL: <http://ksag.washburnlaw.edu/opinions/1996/1996-055.htm>.

Powers Generally 1-106

- All powers exercised by cities of the first class, or which shall hereafter be conferred upon them shall be exercised by the Governing Body, subject to such limitations as are prescribed by law.

Qualifications for Drinking Establishment City License 4-108

- The Governing Body of the City shall, if the applicant is qualified by law, issue a license to the applicant.
- A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of K.S.A. 41-2601 et seq.
- A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of Section 4-112. (Ord. 6296)

Business Regulation 4-109

- No person shall have any alcoholic liquor in his or her possession while in the place of business, unless the premises are currently licensed under a license issued by the State Director of Alcoholic Beverage Control

Restriction of Location 4-113

- Restricts where a drinking establishment may be located in relation to a school or church.

Authority to declare a Drinking Establishment a Habitual Public Nuisance

Authority of City Commission to declare a drinking establishment a public nuisance vested in Ch. 4, Art. 1, Sec 4-116 of the Code of the City of Lawrence.

Definition of a Habitual Public Nuisance Ch. 4, Art. 1, Sec. 4-116(A)

- A drinking establishment is a habitual public nuisance when it operates in a manner that habitually harms the public health, safety or welfare of:
 - The general public,
 - Neighboring properties, or
 - Occupants of neighboring properties, or
 - Patrons.**Habitual public nuisances are hereby prohibited.**

Findings Necessary Ch. 4, Art. I, Sec. 4-116(B)(1) and (2)

- A habitual public nuisance shall only be determined to exist if the **City Commission** makes the following findings:
 - (1) The harm to the public health, safety or welfare can be fairly attributed to the operation of the private club or drinking establishment; **and**
 - (2) The harm to the public health, safety or welfare is of a habitual nature, and no limited to isolated incidents of an infrequent occurrence.

Consideration of Drinking Establishments in Close Proximity

- The proximity of other licensed premises or similar facilities shall be considered by the Commission in making the finding that a drinking establishment is a public nuisance. Ch. 4, Art. I, Sec. 4-116(B)(1).

Habitual Public Nuisance Penalty. Ch. 4, Art. I, Sec. 4-116(C)(1) and (2)

- City Commission **must** consider the following when considering an appropriate penalty:
 - Actions taken by ownership to mitigate or eliminate harm; and
 - Whether violations of law involved employees of the drinking establishment.

Authority of City Commission to Revoke a City Issued Liquor License

- Authority of City Commission to revoke or suspend a Liquor License issued by the City of Lawrence is vested in Ch. 4, Art. I, Sec 4-115 of the Code of the City of Lawrence.

Revocation of City issued Liquor License Ch. 4, Art. I, Sec 4-115 (A-E)

- City Commission may revoke City License for **one or more** of the following:
 - (A) Suspension or revocation of State license.
 - (B) Violation of any provisions of K.S.A. 41-2601 et seq.
 - (C) Violation of any provisions of this Article.
 - (D) Habitual violations of occupancy limits established by the City.
 - (E) Determination that private club or drinking establishment is a habitual public nuisance as defined by Section 4-116.

Request for Revocation of State License

- K.S.A 41-2651 gives the City Commission the authority to:
 - "...request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended."
 - "The governing body shall provide the director **reasonable cause** to believe a hearing is necessary based upon factors included in rules and **regulations by the secretary.**"

Revocation governed by Kansas
Administrative Regulations K.A.R. 14-19-38

- Governing body of a City may request license revocation.
- Request shall be:
 - Submitted in writing on Letterhead
 - Accompanied by evidence indicating RC exists.
- In determining if a license should be revoked the Director considers the following:
 - Crimes of violence
 - Unreasonable drain on public resources
 - Threats to public health, safety and welfare
 - Nuisance Actions
 - Remedial steps taken by the City

Summary of Authority

- 4-116
City Commission vested with the authority to declare a drinking establishment a Habitual Public Nuisance.
- 4-115
City Commission vested with the authority to revoke a City Liquor License.
- K.S.A. 41-2651
City Commission Vested with the Authority to request the Director of Alcohol Beverage Control to hold a hearing on the revocation of a State Liquor License.

ATTACHMENT I

- 1-104 **CATCH LINES OF SECTIONS.**
The CATCH LINES or headings of the sections of this Code are intended as mere words to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of any section nor, unless expressly so provided, shall they be so deemed when any section, including its catch line, is amended or reenacted. (Code 1981)
- 1-105 **AMENDMENTS; REPEAL.**
Any portion of this Code may be amended by specific reference to the section number as follows: "That Section 1-105 of the Code of the City of Lawrence is hereby amended to read as follows: (the new provisions shall then be set out in full)."

A new section not heretofore existing in the Code may be added as follows: "That the Code of the City of Lawrence is hereby amended by adding a section (or article or chapter) which reads as follows... (the new provision shall be set out in full)." All sections, or articles or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) 1-105 of the Code of the City of Lawrence is hereby repealed." (K.S.A. 12-3004; Code 1981)
- 1-106 **POWERS GENERALLY.**
All powers exercised by cities of the first class, or which shall hereafter be conferred upon them shall be exercised by the Governing Body, subject to such limitations as are prescribed by law. (Code 1981)
- 1-107 **ORDINANCES.**
The Governing Body shall have the care, management and control of the City and its finances and shall pass all ordinances needed for the welfare of the City. No ordinance shall be valid unless a majority of all the members elected to the Commission vote in favor. (K.S.A. 12-3002)
- 1-108 **MEETINGS.**

(A) Regular meetings of the Governing Body shall be held on Tuesday of each week. Meetings will be held at 6:35 p.m. in the City Commission room in City Hall. When such meeting day shall be on a legal holiday (or any other day observed as a holiday by the City) or the day before Christmas, the Governing Body may fix the succeeding day not observed as a holiday as a regular meeting day.

(B) Special meetings of the Commission may be called by the Mayor or any two Commissioners. When any special meeting of the Commission is called, the object thereof shall be submitted to the Commission in writing, and the call and the object, as well as any action taken thereon, shall be entered upon the journal by the Clerk and no other business shall be transacted except that mentioned in the call. A written notice of any such special meeting shall be served personally upon each Commissioner or left at his or her usual place of residence at least two hours before the time of such meeting. (K.S.A. 13-2008; Code 1979, 1-105; Ordinance 6005)
- 1-109 **CITY RECORDS.**
The City Clerk or any other officer or employee having custody of City records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 1981)

ATTACHMENT J

CHAPTER I. ADMINISTRATION

<u>Article 1.</u>	General Provisions
<u>Article 2.</u>	Governing Body
<u>Article 3.</u>	City Manager
<u>Article 4.</u>	Officers and Employees
<u>Article 4A.</u>	Office of the City Auditor
<u>Article 5.</u>	Investment and Deposit of City Funds
<u>Article 6.</u>	Employee Benefits
<u>Article 7.</u>	Worker's Compensation Trust Fund
<u>Article 8.</u>	City Sales Tax
<u>Article 8A.</u>	Franchise Fee
<u>Article 9.</u>	Public Records
<u>Article 10.</u>	Sister Cities Advisory Board
<u>Article 11.</u>	Community Development Advisory Committee
<u>Article 12.</u>	Sales Tax Audit Committee
<u>Article 13.</u>	Lawrence Advisory Board on University Student Issues
<u>Article 14.</u>	Social Service Funding Advisory Board
<u>Article 15.</u>	Lawrence Cultural Arts Commission
<u>Article 16.</u>	Downtown Parking Advisory Board
<u>Article 17.</u>	Local Purchasing Preference Policy
<u>Article 18.</u>	Housing Trust Fund - Housing Trust Fund Board
<u>Article 19.</u>	Sustainability Advisory Board
<u>Article 20.</u>	Economic Development Board
<u>Article 21.</u>	Economic Development Incentives and Tax Abatement Policy
<u>Article 22.</u>	ECO2 Commission
<u>Article 23.</u>	Reserved
<u>Article 24.</u>	Community Commission on Homelessness
<u>Article 25.</u>	Lawrence Citizen Advisory Board

ARTICLE 1. GENERAL PROVISIONS

1-101

CODE DESIGNATED.

The chapters, articles and sections herein shall constitute and may be designated as the "Code of the City of Lawrence, Kansas," or the "Lawrence City Code," and may be so cited. (Code 1981)

1-102

DEFINITIONS.

The following definitions and rules of construction shall be observed in the construction of this Code and of all ordinances unless they are inconsistent with the manifest intent of the Governing Body if the context clearly requires otherwise:

- (A) City shall mean the City of Lawrence, in Douglas County, Kansas.
- (B) Computation of Time shall mean the time within which an act is to be done and shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall be excluded.
- (C) County means the County of Douglas, Kansas.
- (D) Delegation of Authority. whenever a provision appears requiring or

authorizing the head of a department or other officer of the City to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

- (E) **Gender**. words importing the masculine gender include the feminine and neuter.
- (F) **Governing Body** means the City Commission of Lawrence, Kansas.
- (G) **In the City** means and includes any territory within the corporate limits of the City of Lawrence, Kansas, and the police jurisdiction thereof and any other territory over which regulatory power has been conferred on the City by law, except as otherwise specified.
- (H) **Joint Authority**. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (I) **Number**. Words used in the singular include the plural and words used in the plural include the singular.
- (J) **Oath** includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."
- (K) **Owner** applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
- (L) **Person** includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
- (M) **Property** includes real, personal and mixed property.
- (N) **Real property** includes land, tenements and hereditaments.
- (O) **Shall** and **Will** are mandatory.
- (P) **Sidewalk** means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- (Q) **Street** means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the City.
- (R) **Tenant or Occupant** applied to a building or land, means any person who occupies the whole or part of such building or land, whether alone or with others. (Code 1981)

1-103

PARENTHETICAL AND REFERENCE MATTER.

The matter in parenthesis at the ends of sections is for information and reference only and is not a part of the Code (Code 1981). Citations to ordinances include only the source and the text may or may not be changed by this Code. This Code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015.

ATTACHMENT K

- (A) There is hereby levied a biennial license fee in the amount fixed by Section 6-108.1 of this Code on each Caterer, Class A Club, Class B Club, Drinking Establishment, and Alcoholic Liquor Retailer; and a license fee in the amount fixed by Section 6-108.1 of this Code on each Temporary Liquor Permit Holder and Temporary Cereal Malt Beverage Permit Holder. Such fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license and thereafter in accordance with the provisions of Section 6-108.1. The completed and executed written application for such license shall be filed with the City Clerk at the time such fee is paid. (Ord. 8634)
- (B) All applicants for new or renewal city licenses shall be submitted to the City Clerk. Upon presentation of a state license, issued by the State Director of Alcoholic Beverage Control, payment of the city license fee and filing the completed license application, the City Commission shall issue a city license if the applicant complies with all applicable provisions of this Article, the City Zoning Ordinance and other applicable ordinances of the City.
- (C) Every licensee shall cause the city license to be placed in plain view next to or below the state license, in a conspicuous place on a licensed premises. (Ord. 6296)
- (D) When the licensee pays the full amount of the license fee upon application and surrenders such license to the City Clerk before the beginning of the second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. No other refund or proration of the license fee shall be issued. (Ord. 8634)

4-108

QUALIFICATION FOR PRIVATE CLUB OR DRINKING ESTABLISHMENT CITY LICENSE.

- (A) The Governing Body of the City shall, if the applicant is qualified by law, issue a license to the applicant.
- (B) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of K.S.A. 41-2601 et seq.
- (C) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of Section 4-112. (Ord. 6296)

4-109

BUSINESS REGULATIONS; ALCOHOLIC LIQUOR.

- (A) No person shall have any alcoholic liquor in his or her possession while in the place of business, unless the premises are currently licensed under a license issued by the State Director of Alcoholic Beverage Control;
- (B) No one under twenty-one (21) years of age shall consume or be served alcoholic liquor and a sign so stating shall be prominently posted in all such places;
- (C) No licensee, or his or her agent or employee, shall allow the serving, mixing or consumption of alcoholic liquor on his or her premises between the hours of 2:00 a.m. and 9:00 a.m. on any day; except as established by Section 4-114.
- (D) Cereal malt beverage may be sold on the premises licensed for retail sale of cereal malt beverage for on-premises consumption at any time when

ATTACHMENT L

Chapter 41: Intoxicating Liquors And Beverages

Article 26: Licensure And Regulation Of Sale Of Liquor By The Drink

Statutes:

- 41-2601: Definitions.
- 41-2602:
- 41-2603:
- 41-2604: Allowing consumption of liquor in violation of act; penalties.
- 41-2605: Licenses; to whom issued.
- 41-2606: Same; application; fees.
- 41-2607: Club licenses; term; refunds.
- 41-2608: Same; premises licensed; zoning compliance.
- 41-2609: Same; suspension or revocation; procedure.
- 41-2610: Unlawful acts of licensee.
- 41-2611: Revocation or suspension of license; grounds for.
- 41-2612: Display of license.
- 41-2613: Immediate entry to and inspection of premises condition of license or permit; revocation for refusal.
- 41-2614: Hours of operation.
- 41-2615: Possession or consumption by minor prohibited.
- 41-2616:
- 41-2616a:
- 41-2617:
- 41-2618:
- 41-2619: Search warrant for premises where liquor sold by the drink without license or permit.
- 41-2620: Sale of liquor by the drink without license or permit prohibited.
- 41-2621: Club or drinking establishment license limited to premises specified.
- 41-2622: Annual license fees; state, county or city; disposition; other state fees fund; use.
- 41-2623: Persons and entities ineligible for licensure.
- 41-2624:
- 41-2625: Same; corporations and partnerships.
- 41-2626: Violations of act or rules and regulations; revocation or suspension of license.
- 41-2627: Club or drinking establishment license; change in premises.
- 41-2628: Time limit for grant or denial of license.
- 41-2629: Class B club, drinking establishment or caterer's license; nature of; term; transfer limited; refund of fees.
- 41-2630: Injunction for violation of act by licensee.
- 41-2631: City ordinance conflicting with act void; ordinance limitations.
- 41-2632: Influencing purchases by licensees prohibited.
- 41-2633: Violations of act or rules and regulations; criminal penalty.
- 41-2633a: Violations of act by licensee or permit holder; civil fine.
- 41-2634: Rules and regulations; criteria for class A clubs.
- 41-2635: Severability.
- 41-2636: Sale of class A club license prohibited.
- 41-2637: Class A club license; rights of licensee; storing customer wine.

- 41-2638:
- 41-2639: Sale of club memberships; restrictions.
- 41-2640: Certain sales practices prohibited; penalties; "drink" defined.
- 41-2641: Class B club license; rights of licensee; storing customer wine.
- 41-2642: Drinking establishment license; rights of licensee; hotel minibars; storing customer wine.
- 41-2643: Caterer's license; rights of licensee.
- 41-2644: Drinking establishment/caterer license; rights of licensee.
- 41-2645: Temporary permit; authorization of certain sales.
- 41-2646: Sale of liquor by the drink in public places; election to prohibit or permit.
- 41-2647: Possession of liquor or cereal malt beverage on licensed premises.
- 41-2648: Effective date of license; conversion of club license to drinking establishment license.
- 41-2649: Title of act.
- 41-2650: Severability.
- 41-2651: Application for licensure, renewal, suspension or revocation; notice to governing body of city or county; power of such governing body to request suspension or revocation hearing; hearings.
- 41-2652: Use of minors to determine compliance with law, limitations.
- 41-2653: Removal of unconsumed alcoholic liquor from premises of club or drinking establishment.

ATTACHMENT M

alcoholic liquor is allowed by law to be served on the premises.

- (E) No licensee, or his or her agent or employee, shall sell, give, trade, or permit the sale, give or trade of any alcoholic liquor to any person under twenty-one (21) years of age. (Ord. 6296)

4-110

CATERERS; NOTICE TO CHIEF OF POLICE.

Prior to any event at which a caterer shall sell or serve alcoholic liquor by the individual drink, a caterer shall provide written notice to the Chief of Police at least seven (7) days prior to the event if the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and time the caterer will be serving. (Ord. 5828)

4-111

CITY TEMPORARY PERMIT.

- (A) It shall be unlawful for any person to conduct an event under a state-issued temporary permit without first applying for a local temporary permit at least seven (7) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:
- (1) Name of the applicant;
 - (2) The group for which the event is planned;
 - (3) The location of the event;
 - (4) The date and time of the event;
 - (5) Any anticipated need for police, fire or other municipal services.
- (B) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and a written application as provided for in Subsection (A), the City Clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the City.
- (C) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police. (Ord. 5828)

4-112

PENALTY.

If any licensee violates any of the provisions of this Article, the Governing Body of the City, upon ten (10) days written notice to the licensee, may, upon hearing, permanently revoke or cause to be suspended for a period of not more than six (6) months the license; or, in the alternative, the individual holding the license may be charged in the municipal court with a violation of the alcoholic liquor laws of the City and upon conviction shall be found guilty of a misdemeanor. (Ord. 5828)

4-113

RESTRICTIONS ON LOCATION.

- (A) No alcoholic liquor shall be sold or served by a person holding a license or permit from the City, at a place of business or other premises located within 400 feet of any school or church. The distance to be measured along the public rights of way, by the shortest route by which a pedestrian would normally walk, from the nearest property line of the school or church, to the primary public entrance to the building, or part thereof, occupied by the place of business or other premises.

ATTACHMENT N

- (A) There is hereby levied a biennial license fee in the amount fixed by Section 6-108.1 of this Code on each Caterer, Class A Club, Class B Club, Drinking Establishment, and Alcoholic Liquor Retailer; and a license fee in the amount fixed by Section 6-108.1 of this Code on each Temporary Liquor Permit Holder and Temporary Cereal Malt Beverage Permit Holder. Such fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license and thereafter in accordance with the provisions of Section 6-108.1. The completed and executed written application for such license shall be filed with the City Clerk at the time such fee is paid. (Ord. 8634)
- (B) All applicants for new or renewal city licenses shall be submitted to the City Clerk. Upon presentation of a state license, issued by the State Director of Alcoholic Beverage Control, payment of the city license fee and filing the completed license application, the City Commission shall issue a city license if the applicant complies with all applicable provisions of this Article, the City Zoning Ordinance and other applicable ordinances of the City.
- (C) Every licensee shall cause the city license to be placed in plain view next to or below the state license, in a conspicuous place on a licensed premises. (Ord. 6296)
- (D) When the licensee pays the full amount of the license fee upon application and surrenders such license to the City Clerk before the beginning of the second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. No other refund or proration of the license fee shall be issued. (Ord. 8634)

4-108

QUALIFICATION FOR PRIVATE CLUB OR DRINKING ESTABLISHMENT CITY LICENSE.

- (A) The Governing Body of the City shall, if the applicant is qualified by law, issue a license to the applicant.
- (B) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of K.S.A. 41-2601 et seq.
- (C) A city license shall not be issued to an applicant unless such applicant is in compliance with the provisions of Section 4-112. (Ord. 6296)

4-109

BUSINESS REGULATIONS; ALCOHOLIC LIQUOR.

- (A) No person shall have any alcoholic liquor in his or her possession while in the place of business, unless the premises are currently licensed under a license issued by the State Director of Alcoholic Beverage Control;
- (B) No one under twenty-one (21) years of age shall consume or be served alcoholic liquor and a sign so stating shall be prominently posted in all such places;
- (C) No licensee, or his or her agent or employee, shall allow the serving, mixing or consumption of alcoholic liquor on his or her premises between the hours of 2:00 a.m. and 9:00 a.m. on any day; except as established by Section 4-114.
- (D) Cereal malt beverage may be sold on the premises licensed for retail sale of cereal malt beverage for on-premises consumption at any time when

alcoholic liquor is allowed by law to be served on the premises.

- (E) No licensee, or his or her agent or employee, shall sell, give, trade, or permit the sale, give or trade of any alcoholic liquor to any person under twenty-one (21) years of age. (Ord. 6296)

4-110

CATERERS; NOTICE TO CHIEF OF POLICE.

Prior to any event at which a caterer shall sell or serve alcoholic liquor by the individual drink, a caterer shall provide written notice to the Chief of Police at least seven (7) days prior to the event if the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and time the caterer will be serving. (Ord. 5828)

4-111

CITY TEMPORARY PERMIT.

- (A) It shall be unlawful for any person to conduct an event under a state-issued temporary permit without first applying for a local temporary permit at least seven (7) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:

- (1) Name of the applicant;
- (2) The group for which the event is planned;
- (3) The location of the event;
- (4) The date and time of the event;
- (5) Any anticipated need for police, fire or other municipal services.

- (B) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and a written application as provided for in Subsection (A), the City Clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the City.

- (C) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police. (Ord. 5828)

4-112

PENALTY.

If any licensee violates any of the provisions of this Article, the Governing Body of the City, upon ten (10) days written notice to the licensee, may, upon hearing, permanently revoke or cause to be suspended for a period of not more than six (6) months the license; or, in the alternative, the individual holding the license may be charged in the municipal court with a violation of the alcoholic liquor laws of the City and upon conviction shall be found guilty of a misdemeanor. (Ord. 5828)

4-113

RESTRICTIONS ON LOCATION.

- (A) No alcoholic liquor shall be sold or served by a person holding a license or permit from the City, at a place of business or other premises located within 400 feet of any school or church. The distance to be measured along the public rights of way, by the shortest route by which a pedestrian would normally walk, from the nearest property line of the school or church, to the primary public entrance to the building, or part thereof, occupied by the place of business or other premises.

ATTACHMENT O

preservation of public health, safety or welfare.

- (B) Additional requirements for City licensure of a private club or drinking establishment as set out in Subsection (A) shall only be imposed after the license holder or applicant has been mailed, to the address on the license or application, by certified mail, return-receipt requested, notice of the proposed conditions. After the posting of the certified mail, the license holder or applicant shall have ten (10) days to submit a written request to the City Clerk for a hearing before the City Commission on the proposed conditions.
- (C) The City Commission may issue a city license conditioned upon the licensee complying with all requirements within thirty (30) days after license issuance of such time as established by the City Commission.
- (D) During the duration of a city license, the City Commission may require additional conditions on a city license, under procedures and requirements set forth under this Section. (Ord. 6296)

4-115

REVOCAION OR SUSPENSION OF CITY LICENSE FOR PRIVATE CLUB OR DRINKING ESTABLISHMENT.

The City Commission may revoke or suspend the license of a private club or drinking establishment under this chapter for any one or more of the following reasons:

- (A) Suspension or revocation of State license.
- (B) Violation of any provisions of K.S.A. 41-2601 et seq.
- (C) Violation of any provisions of this Article.
- (D) Habitual violations of occupancy limits established by the City, which shall be defined as three (3) or more violations within a twelve (12) consecutive month period. Revocation or suspension of a license for habitual violations of occupancy limits shall require a finding by the City Commission that the occupancy limit violations represented a substantial threat, in either the number of violations or the excess above the occupancy limit, to the safety of club or establishment employees and patrons.
- (E) Determination that private club or drinking establishment is a habitual public nuisance as defined by Section 4-116. (Ord. 7068)

4-116

HABITUAL PUBLIC NUISANCE PROHIBITED.

- (A) A drinking establishment or private club is a habitual public nuisance when it operates in a manner that habitually harms the public health, safety or welfare of the general public, neighboring properties or occupants of neighboring properties, or patrons. Habitual public nuisances are hereby prohibited.
- (B) A habitual public nuisance as defined by Subsection (A) shall only be determined to exist if the City Commission makes the following findings:
 - (1) The harm to the public health, safety or welfare can be fairly attributed to the operation of the private club or drinking establishment. The proximity of other licensed premises or similar facilities shall be considered by the Commission in making this finding.

- (2) The harm to the public health, safety or welfare is of a habitual nature, and not limited to isolated incidents of an infrequent occurrence.
- (C) In determining the penalty for a drinking establishment or private club that is a habitual public nuisance, the City Commission shall consider:
 - (1) Whether the owners and operators of the drinking establishment or private club have taken actions to mitigate or eliminate the harm to public health, safety or welfare; and
 - (2) Whether the harm to public health, safety or welfare includes violations of law on the part of the private club or drinking establishment owners, operators, employees, or patrons.
- (D) Nothing in this ordinance shall be interpreted as penalizing a drinking establishment or private club, or the owner or employees of such drinking establishment or private club, solely for requesting assistance or reporting an incident to the police department. The City encourages drinking establishments and private club owners and employees to promptly report to the police department harmful or potentially harmful acts or conduct on the part of patrons. (Ord. 6296)

4-117

RETAIL LIQUOR ESTABLISHMENTS: HOURS OF SALE.

- (A) The sale at retail liquor establishments of alcoholic liquor on Sundays shall only occur between the hours of 12:00 p.m. and 8:00 p.m. (Ord. 7899)
- (B) The sale at retail of alcoholic liquor shall not occur on Easter, Thanksgiving and Christmas. (Ord. 7899)
- (C) On all other days except Sunday, the sale at retail liquor establishments of alcoholic liquor shall only occur between the hours of 9:00 a.m. and 11:00 p.m. (Ord. 7667)
- (D) The sale at retail of alcoholic liquor at a farmers' market pursuant to the authority of a valid Farmers' Market Sales Permit issued by the State of Kansas may occur only during the hours specified by that permit unless otherwise authorized by Kansas law. (Ord. 8436)

ARTICLE 2. CEREAL MALT BEVERAGES

4-201

DEFINITIONS.

The definitions of words defined in Section 4-101 of this Code shall apply to this Chapter unless a contrary definition is provided herein. In addition thereto, the following definitions shall apply in this Article:

- (A) **Licensee** means the person who has been properly issued a license to sell cereal malt beverage within the corporate limits of the City.
- (B) **Place of Business** shall mean any place where cereal malt beverages are sold.
- (C) **Retailer** means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form. (Ord. 5828;

ATTACHMENT P

West's Kansas Statutes Annotated Currentness

Chapter 41. Intoxicating Liquors and Beverages

Article 26. Licensure and Regulation of Sale of Liquor by the Drink

K.S.A. 41-2651

41-2651. Application for licensure, renewal, suspension or revocation; notice to governing body of city or county; power of such governing body to request suspension or revocation hearing; hearings

(a) When application for licensure or renewal of licensure as a club or drinking establishment is received by the director, the director shall notify the governing body of the city or county where the premises to be licensed are located, if such governing body requests such notification.

(b) No such license or renewal shall be granted by the director until the expiration of at least 10 days from the time of filing the application for licensure or renewal with the director, during which period the governing body of any city or county notified pursuant to subsection (a) may request the director to hold a hearing on the granting or refusal to grant such license or renewal.

(c) At any time, the governing body of any city or county may request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended. The governing body shall provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause.

(d) Any hearing held pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act as provided in K.S.A. 41-2609, and amendments thereto.

(e) At any hearing held pursuant to this section the governing body of such city or county shall have the right to appear before the director and present testimony and evidence and make recommendations regarding the granting or refusal to grant such license or renewal, or whether such license should be revoked or suspended. In determining whether to grant or to refuse to grant such license or renewal, or to revoke or suspend such license, the director shall take into consideration the testimony and evidence and recommendations of the governing body of such city or county. The director may refuse to grant such license or renewal, or may revoke or suspend such license based on the evidence gathered at such hearing, in the interest of protecting the public welfare, and in accordance with rules and regulations adopted by the secretary.

(f) This section shall be part of and supplemental to the club and drinking establishment act.

Credits

Laws 1991, ch. 142, § 2; Laws 2009, ch. 114, § 11, eff. July 1, 2009.

K. S. A. 41-2651, KS ST 41-2651

Current through Chapter 135 (End) of the 2011 Regular Session.

End of Document

© 2011 Thomson Reuters. No claim is made for original U.S. Government works.

ATTACHMENT Q

14-21-22 Denial, revocation, or suspension of license upon..., KS ADC 14-21-22

Kansas Administrative Regulations Currentness
Agency 14. Department of Revenue - Division of Alcoholic Beverage Control
Article 21. Drinking Establishments

K.A.R. 14-21-22

14-21-22 Denial, revocation, or suspension of license upon request
for hearing by governing body of city or county; request; evidence.

(a) The governing body of a city or county may request a hearing before the director to determine whether an application for licensure or renewal shall be denied or whether a license issued under the club and drinking establishment act shall be revoked or suspended.

(b) The request shall be submitted in writing by the governing body, on city or county letterhead, to the director and shall be accompanied by evidence that indicates reasonable cause exists to conduct a hearing to deny, revoke, or suspend the license.

(c) The director shall review the evidence presented and determine whether reasonable cause exists to conduct a hearing to deny, revoke, or suspend the license. The director shall notify the governing body of the date and time of the hearing, or denial of the request, in writing as soon as reasonably possible.

(d) The hearing and notices shall be in accordance with the Kansas administrative procedures act (KAPA). The director shall consider the evidence presented by the governing body and the licensee at the hearing and determine whether the license shall be denied, revoked, or suspended.

(e) Evidence to be considered in determining whether a license shall be denied, revoked, or suspended shall include the following:

(1) A crime of violence has occurred in, on, or about the premises, arising from conduct occurring within the licensed premises.

(2) The licensed premises and surrounding areas under relative control of the licensee constitute an abnormal and unreasonable drain on public resources to secure the safety of patrons, local residents, and businesses.

(3) The licensed premises, including surrounding areas under relative control of the licensee, constitute a threat to public health, safety, and welfare.

(4) The governing body has filed one or more nuisance actions against the licensee or the licensed premises.

(5) The governing body or licensee has taken all reasonable remedial steps regarding the situation.

(f) For purposes of this regulation, "crime of violence" shall include arson, murder, manslaughter, rape or sexual assault, armed robbery, assault, and battery, and an attempt to commit any of these crimes.

Credits

(Authorized by and implementing K.S.A. 2009 Supp. 41-2651; effective Sept. 17, 2010.)

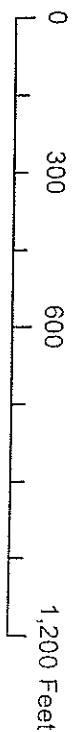
Current through Vol. 31, No. 08, February 23, 2012

K.A.R. 14-21-22, KS ADC 14-21-22






Liquor Licenses Surrounding Taste

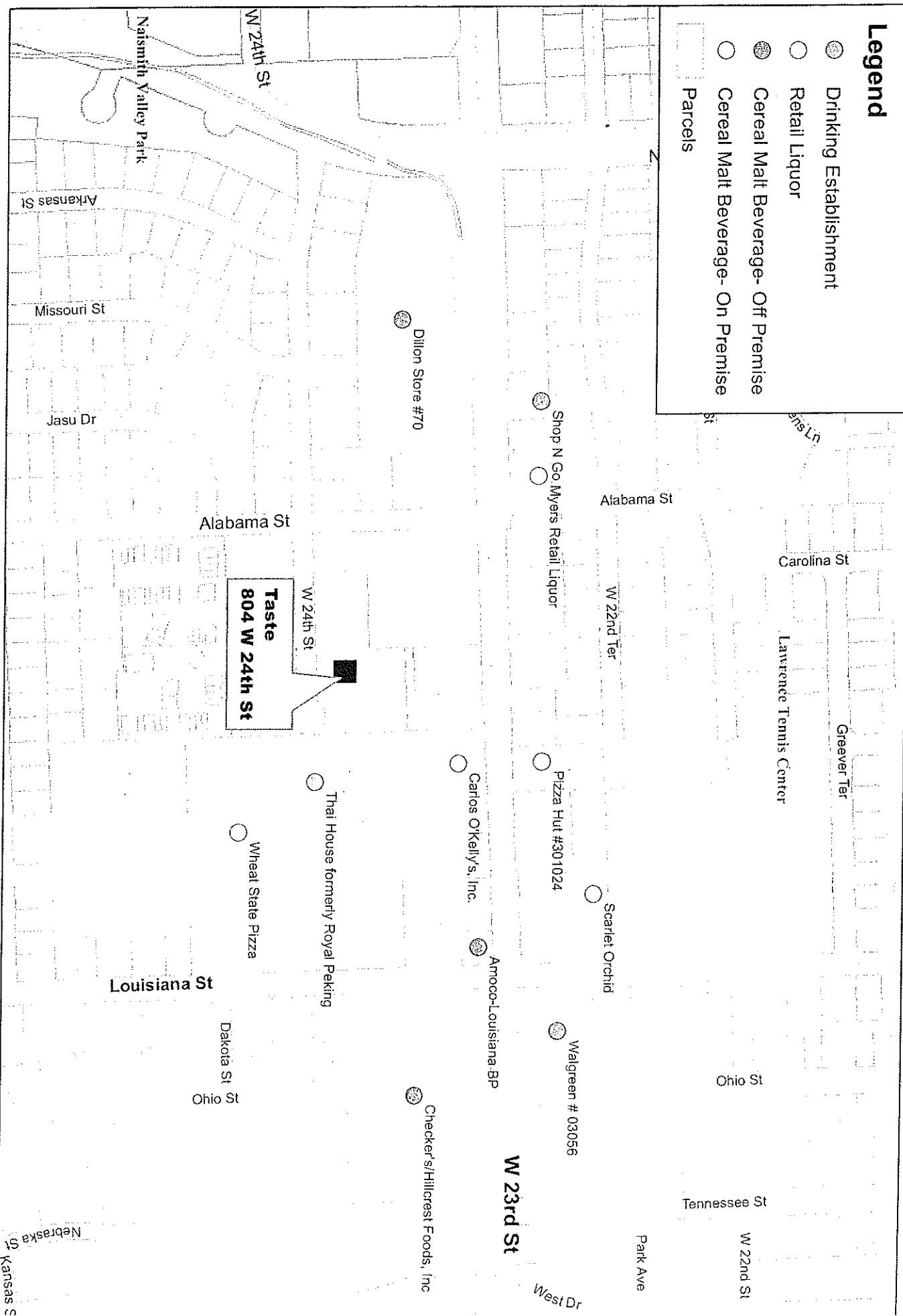
Licenses as of 9/11/2011

ATTACHMENT R



Legend

-  Drinking Establishment
-  Retail Liquor
-  Cereal Malt Beverage- Off Premise
-  Cereal Malt Beverage- On Premise
-  Parcels



ATTACHMENT S

West's Kansas Statutes Annotated Currentness
Chapter 8. Automobiles and Other Vehicles
Article 2. Drivers' Licenses
Habitual Violators

K.S.A. 8-285

8-285. "Habitual violator" defined; other definitions

Except as otherwise provided in this section, as used in this act, the words and phrases defined in K.S.A. 8-234a, and amendments thereto, shall have the meanings ascribed to them therein. The term "habitual violator" means any resident or nonresident person who, within the immediately preceding five years, has been convicted in this or any other state:

(a) Three or more times of:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or in K.S.A. 21-5406, and amendments thereto, or as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with that statute;
- (2) violating K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute;
- (3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with those statutes;
- (4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;
- (5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications, or violating the provisions of a law of another state which is in substantial conformity with that statute;
- (6) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;
- (7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state, any resolution of any county in this state or a law of another state which is in substantial conformity with those statutes; or
- (8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage, or an ordinance of any city in this state or a resolution of any county in this state which is in substantial conformity with such statute.

(b) Three or more times, either singly or in combination, of any of the offenses enumerated in subsection (a).

For the purpose of subsection (a)(2), in addition to the definition of "conviction" otherwise provided by law, conviction includes, but is not limited to, a diversion agreement entered into in lieu of further criminal proceedings, or a plea of nolo contendere, on a complaint, indictment, information, citation or notice to appear alleging a violation of K.S.A. 8-1567, and amendments thereto, or an ordinance of a city in this state, a resolution of a county in this state or law of another state, which ordinance or law prohibits the acts prohibited by that statute.

ATTACHMENT T

Kansas Statutes

search

Browsable and searchable archive of 2009 Kansas Statutes Annotated (K.S.A.)

Chapter 21: Crimes And Punishments

PART III.--CLASSIFICATION OF CRIMES AND SENTENCING

Article 46: Sentencing

Statute 21-4642: Aggravated habitual sex offender; sentence to imprisonment for life without parole. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in paragraphs (3)(A) through 3(J) or (3)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted on at least two prior conviction events of any sexually violent crime.

(2) "Prior conviction event" means one or more felony convictions of a sexually violent crime occurring on the same day and within a single court. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

(3) "Sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto;

(K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(L) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or

(M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

History: L. 2006, ch. 212, § 1; L. 2009, ch. 70, § 3; Apr. 16.

ATTACHMENT U

LJWorld.com

City trying to revoke bar's liquor license

Public safety cited as reason after 3 violent incidents at Taste Lounge, Bar and Grill



Alex Parker

Taste Lounge, Bar and Grill, 804 W. 24th St. [Enlarge photo](#)

May 2, 2012, 11:31 p.m. Updated: 3 May 2012, 8:58 a.m.

Lawrence city officials are seeking to revoke the liquor license of Taste Lounge, Bar and Grill based on public safety concerns.

A bouncer was shot outside the bar, 804 W. 24th St., on March 17, and there were two other incidents where shots were fired outside the business last October and December. Suspects have been arrested and charged in all three cases.

"These are things that draw our attention when you have these threats to the safety and well-being of the community," said Chad Sublet, an assistant city attorney.

City commissioners at their May 15 meeting are scheduled to conduct a hearing on whether Taste's city liquor license should be revoked, and city staff members are also asking the commission to request a hearing before the state's Alcoholic Beverage Control to determine whether Taste's state license should be suspended or revoked, according to an April 27 letter City Attorney Toni Wheeler sent to Taste's owner, Lee Riley of Topeka.

A bar that loses its city-issued liquor license could still serve alcohol under its state license, but the city would not be able to collect alcohol sales tax funds, Sublet said. The ABC could also take notice of evidence presented at a city hearing, he said.

"We have a number of drinking establishments in the community. The vast majority of them are safe operations. The owners and the staff take their safety responsibilities seriously, and we occasionally have issues, and we want to work with the

business owner," City Manager David Corliss said. "When we find we're not being successful, we want to present it to the City Commission and see if there is additional action we need to take."

In the letter Wheeler said Riley met with Corliss, Police Chief Tarik Khatib and other city officials April 24 to discuss the city's "public safety concerns with Taste." The letter also mentions that Riley indicated he intended to cease operations at Taste before the May 15 hearing.

Sublet said Wednesday that for now the city planned to go forward with seeking the revocation until it received further notice, and Wheeler's letter noted the city would likely defer or table the City Commission action if Taste surrenders its liquor license to the state before noon May 10.

Rich Blackmon, a Taste manager, who has defended the bar's actions and said he thought it was being unfairly targeted, declined to confirm Wednesday that Riley intended to cease the bar's operations.

The city also provided to the Journal-World on Wednesday the number of police and medical calls for service from Jan. 1, 2011, through April 1 to each establishment with an on-premise liquor license — mostly bars and restaurants.

Five establishments had a higher overall number of calls during that time than Taste, which has 75. They were:

- Abe and Jake's Landing, 8 E. Sixth St., 163.
- The Oread, which includes The Cave nightclub and everything within the hotel and development, 1200 Oread Ave., 122.
- Tonic, 728 Mass., 99.
- The Hawk, 1340 Ohio, 93.
- Cadillac Ranch, 2515 W. Sixth St., 91.

The calls include everything that originated from that address, including alarms, bar checks, alcohol violations and battery calls or more serious crimes. Sublet said the average number of calls among the more than 100 establishments was 19.8.

Blackmon questioned why city officials would seek to revoke Taste's liquor license when five other bars had a higher number of calls.

Aside from the firearms-related calls, Taste had only five battery calls listed, while Abe and Jake's had 26, The Oread had 18, 15 were listed at Cadillac Ranch, 10 at The Hawk, and 19 at Tonic.

"It has to be important to point out," he said. "So why are they coming after us?"

Sublet said the city's action at Taste was driven by the violent crime calls at Taste, including the March shooting and two other incidents when shots were fired outside in October.

Corliss and Sublet said city officials either had already met with or arranged to meet with owners of the five other establishments. The city is not currently seeking to revoke their liquor licenses, they said.

According to the ABC, Taste has no violations for serving alcohol to minors, but it had a citation issued in March for not timely filing its liquor drink tax in September to December of last year.

Lawrence police also said last month they intended to send a report to the ABC alleging that on April 15 Taste was open past

2 a.m. and had failed to properly display its liquor license. Blackmon has said the bar was open serving chicken wings and not alcohol, and he said Wednesday the business had not received notice of that incident from the state.

Capt. Bill Cory, a Lawrence police patrol supervisor, said officers had two discussions with Taste staff members in the parking lot after two recent incidents, including on April 15.

"When you have an establishment that has violent crime, the city has to explore all of its options dealing with those issues," Cory said Wednesday of the city's revocation request.

The city pursued similar avenues in recent years against establishments that had problems with violence. Owners of Last Call closed the nightclub in the 700 block of New Hampshire Street after a legal battle with the city. In 2009, owners of the former Club Axis, 821 Iowa, previously known as Moon Bar, also closed its doors and surrendered the club's state liquor license.

An earlier version of the story listed the incorrect number of battery calls at Taste from Jan. 1, 2011, to April 1, 2012. It was five.

Originally published at: <http://www2.ljworld.com/news/2012/may/02/city-trying-revoke-bars-liquor-license/>