

Ordinance No. _____

Consideration, discussion and possible preview of an ordinance amending the Broken Arrow Code, Chapter 4, Alcoholic Beverages, Article V, Low-Point Beverages, Section 4-96. - Suspension or revocation of license, specifically allowing the City Manager to suspend or revoke a low-point beer license and allowing licensees subject to suspension or revocation to appeal the City Manager's decision to the City Council; repealing all ordinances to the contrary; and declaring an emergency.

SECTION I. That Chapter 4, Alcoholic Beverages, Article V, Low-Point Beverages, Section 4-96, Suspension and revocation of license, of the Code of Ordinances of the City of Broken Arrow, is hereby amended to read as follows:

Sec. 4-96. - Suspension or revocation of license.

- (a) The City Manager or his designee may suspend, for not more than 60 days, or revoke a license issued under this article, if, after a hearing, the City Manager or his designee finds that the holder of the license has made a material misstatement in the application for the license, or the renewal thereof, or that the holder of the license or the manager or other person in control of the licensed place where low-point beer is sold has violated any provision of this article or of state law insofar as it regulates the sale of low-point beer. Providing, that the entry of a plea of guilty or a finding of guilt entered by the municipal court of the City of Broken Arrow, or entered by the district court for the county in which the business is located, shall be sufficient evidence to establish a prima facie case of violation.
- (b) The police department shall investigate complaints concerning the place where low-point beer is sold. If it is found that a violation of the provisions of this article has been committed, the police department shall file a complaint with the City Manager's office, setting forth the alleged acts constituting the violation.
- (c) The City Clerk's office shall fix the date for a hearing and shall cause to be served upon the licensee, a copy of the complaint and notice of time and place of the hearing. The complaint and notice of the hearing shall be served upon the manager, operator, partner, or other person having supervisory control of the premises of the place where low-point beer is shown, or if such person cannot be found, by mailing the same by registered mail addressed to such person at the licensed premises. At the hearing provided for in this section, the licensee or any interested person may be present and present such evidence as may be relevant and material. If, at the conclusion of such hearing, the City Manager or his designee finds that the licensee has made a material misstatement in the application of a license or renewal thereof, or that the manager or other person in control of the licensed business has violated any provision of this article, or of state law insofar as it regulates the sale of alcoholic beverages, the City Manager or his designee shall suspend, for not more than 60 days, or shall revoke the license. Upon suspension or revocation, the licensee shall immediately cease operations as a place where low-point beer is sold.
- (d) In the event the City Manager or his designee revokes the license issued under this article, the licensee shall not be eligible directly, nor through any person, corporation or entity under his control, to apply for a new license for a period of two years. After the expiration of two years, the Chief of Police may recommend approval or rejection, and the City Manager or his

designee may approve or reject any application for the former licensee as the facts and circumstances of the case warrant at that time.

- (e) Any licensee or interested person may have the right to appeal to the Broken Arrow City Council. Such appeal shall be taken by filing a notice of appeal with the City Clerk's office within 14 days after notice of the decision of suspension or revocation. The notice of the time and place of hearing on such appeal shall be given in the same manner as the notice of revocation and suspension is required to be made.

SECTION II. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION III. An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this 7th day of June, 2016.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED:

ASSISTANT CITY ATTORNEY