ORDINANCE NO. 50-379

AN ORDINANCE AMENDING SECTION 15.01.110 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO OVERCROWDING

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

SECTION 1. Section 15.01.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:


A. No person shall permit overcrowding or admittance of any person beyond the approved capacity, as set forth in the International Building Code, of a building or a portion thereof. In determining whether the capacity of a building or any portion thereof has been exceeded, all persons within or upon the premises in questions shall be considered, including patrons, guests, employees, entertainers and management personnel.

Upon finding any overcrowding conditions or obstructions in aisles, passageways or other means of egress, or any condition which constitutes a life safety hazard, the Fire Chief, the Chief's authorized agent, or any law enforcement officer shall be authorized to take such action as is necessary to insure the safety of persons in and around the building or portion thereof, including causing the event or ongoing operation of business to be
stopped until such condition or obstruction is corrected, or, upon approval of the Fire Chief, any Deputy Fire Chief or Fire Marshal, may cause the premises to be locked until such condition is corrected.

In the event any building or portion thereof is ordered locked by the Fire Chief or the Chief's designee as provided herein, the owner or occupant of such building or portion thereof may appeal the order to the City Council within ten (10) calendar days from the date of the order. The appeal must be in writing and filed with the city clerk and shall be heard promptly. Such an appeal shall stay the order locking the premises. In the event the order is upheld by the City Council, the owner or occupant of such building or portion thereof may appeal to the district court as provided by state law; however such appeal shall not stay the order locking the premises.

Any person violating the provision of this Section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred ($2,500) dollars and in addition to the penalties provided herein, the court may, upon conviction, order the building or portion thereof in which the overcrowded conditions existed to be locked for a period not to exceed thirty (30) calendar days.

B. For offenses occurring at events or on premises licensed as an entertainment establishment pursuant to Chapter 3.30 of the City of Wichita, a minimum fine of not less than five hundred ($500) nor more than two thousand five hundred ($2,500) dollars shall be imposed for a first conviction.

Upon a second or subsequent conviction occurring at an entertainment establishment a minimum fine of not less than one thousand ($1,000) dollars and not more than two thousand five hundred ($2,500) shall be assessed.
C. The imposition of the fines established in paragraph (B) shall be mandatory and the court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof except that the court may order that the perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.04.210(e) and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

D. For the purposes of determining whether a conviction is a first or subsequent conviction for sentencing, only convictions occurring within the proceeding five (5) years of the offense will be considered. It is irrelevant whether an offense occurred before or after conviction for a previous offense or whether the offense occurred at or upon the same licensed premises.
SECTION 2. The original of Section 15.01.110 of the Code of the City of Wichita, Kansas is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 13th day of December, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer L. Magaña
City Attorney and Director of Law