

ORDINANCE NO. 080013

Amending Chapter 10, Code of Ordinances, by repealing Section 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof a new article of like number and subject matter which under 10-211(1)(c)(iii) adds an exception to allow for an additional sales-by-drink license.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 10, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 10-211. Number of retail alcoholic beverage licenses.

The number of alcoholic beverage licenses issued by the director shall be limited on the following basis:

- (1) Retail sales-by-drink licenses. For those certain real properties that abut the right of way of Chouteau Trafficway from the intersection with the north right of way line of Northeast Parvin Road on the south to the intersection with the south right of way line of Russell Road on the north, two retail sale-by-drink licenses may be issued for population of zero to 1,500, and one additional sale-by-drink license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. For all other census blocks located in the city, one retail sales-by-drink license may be issued for population of zero to 1,500, and one additional retail sales-by-drink license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. The center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the director two coordinates expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises. The limitations provided in this section shall not apply to:

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- a. Retail sales-by-drink licenses issued to hotels, apartment hotels, motels, inns, lodges or similar places providing principally transient residential accommodations and having at least 40 rooms for overnight accommodation.
- b. Retail sales-by-drink licenses issued to restaurant premises where substantial quantities of food are served, as defined in this chapter. The licensee of restaurant premises granted a license under this subsection shall file with the director, on a form provided by him, a verified statement showing the total amount of gross receipts, the total amount of gross receipts from the sale of alcoholic beverages, and the total amount of gross receipts from the sale of prepared meals and food made and consumed on the premises for the 90-day period immediately following the date of the issuance of the license, and thereafter for the 12-month period immediately preceding November 1 of each year. The statements shall be filed within 15 days after the expiration of the 90-day period and with each annual renewal application. Upon proper and sufficient evidence submitted to the director, the director shall summarily cancel or refuse to renew the license upon the failure of the licensed premises for a period of one year after issuance or renewal of the license to maintain an average of 50 percent or more of its total gross receipts in sales of prepared meals and food made and consumed on the premises. Cancellation as provided in this subsection by the director of any license issued under this subsection shall not be deemed a revocation and shall not disqualify the licensee from applying for and receiving any license granted under the provisions of this chapter. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.
- c. Sales-by-drink premises located wholly within the following described locations:
 - (i) That area bounded by, including and beginning from the intersecting point of the block face frontage of the west side of Broadway Boulevard and including the block face frontage of I-70 on the north, thence east along the block face frontage of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes

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Avenue, thence south along the block face frontage of the east side of Holmes Avenue to the intersecting point of and including the block face frontage of the south side of 24th Street, thence west along the block face frontage of the south side of 24th Street to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard, thence north along the block face frontage of the west side of Broadway Boulevard to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard and the block face frontage of I-70 on the north and that area bounded by and including the block face frontage of the north side of 17th Street Terrace, the east side of Woodland Avenue, the south side of 19th Street and the west side of Paseo Boulevard and that area bounded by and beginning at the intersection of the west city limit and the south bank of the Missouri River, thence south along the west boundary of the city limit to the intersection with the north right of way line of 25th Street, thence east along the north right of way line of 25th Street to the intersection with the west right of way line of Allen Road, thence generally north along the west right of way line of Allen Road to the intersection with the west right of way line of Holly Avenue, thence north along the west right of way line of Holly Avenue to the intersection with the west right of way line of Beardsley Road, thence north along the west right of way line of Beardsley Road to the intersection with the north right of way line of 6th Street, thence east along the north right of way line of 6th Street to the intersection with the west right of way of Broadway Avenue, thence north along the west right of way line of Broadway Avenue to the intersection with the south bank of the Missouri River, thence west along the south bank of the Missouri River to the point of beginning.

- (ii) The east and west sides of N.W. Prairie View Road, north of N.W. Barry Road extending north to Missouri Highway 152, on the north and south sides of N.W. Prairie View Road, west of the intersection of Interstate 29 and Highway 152 extending west to N. Congress Avenue, and at the southwest corner of Highway 152 and N. Congress Avenue.
- (iii) The area bounded by Guinotte Avenue on the south, North Garland Avenue on the west, Rochester Avenue on the north and North Chestnut Trafficway on the east.

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(2) Retail sales-by-package licenses. For any retail sales-by-package license located within the entire boundaries of any United States census blocks located within 3,000-feet of the city limits of Kansas City, Missouri, two retail sale-by-package licenses may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. For all other census blocks located in the city, that do not abut the city limit lines as described above, one retail sale-by-package license may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. The center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the director two coordinates expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises. The limitations provided in this section shall not apply to:

a. Retail sales-by-package premises with not less than 20,000 square feet of sales display area within a building and an average of 80 percent or more of its total gross receipts from non-alcohol sales. The licensee of a retail sales-by-package premises granted a license under this subsection shall file with the director, on a form provided by him, a verified statement showing the total amount of gross receipts, the total amount of gross receipts from the sale of alcoholic beverages, and the total amount of gross receipts from the sale of inventory exclusive of alcoholic beverages made on the premises for the 90-day period immediately following the date of the original issuance of the license, and thereafter for the 12-month period immediately preceding May 1 of each year. The statements shall be filed within 15 days after the expiration of the 90-day period and with each annual renewal application for a retail sales-by-package license. Upon proper and sufficient evidence submitted to the director, the director shall summarily cancel or refuse to renew the license upon the failure of the licensed premises for a period of 1 year after original issuance or renewal of the license to maintain not less than 20,000 square feet of sale display area

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within a building; or upon the failure to maintain an average of 80 percent or more of its gross receipts from sales of inventory excluding alcoholic beverages. Cancellation as provided in this subsection by the director of any license issued under this subsection shall not be deemed a revocation and shall not disqualify the licensee from applying for and receiving any license granted under the provisions of this chapter. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

- b. Sales-by-package premises located wholly within the following described location: That area bounded by, including and beginning from the intersecting point of the block face frontage of the west side of the Broadway Bridge and the south bank of the Missouri River, thence east along the south bank of the Missouri River to the intersecting point of and including the west side of the Heart of America Bridge, thence south along the block face frontage of the west side of the Heart America Bridge to the intersecting point of and including the block face frontage of the north side of I-70 on the north, thence east along the block face frontage of the north side of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes Avenue, thence south along the block face frontage of the east side of Holmes Avenue to the intersecting point of and including the block face frontage of the south side of 24th Street, thence west along the block face frontage of the south side of 24th Street to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard, thence north along the block face frontage of the west side of Broadway Boulevard to the intersecting point of the west side of the Broadway Bridge and the south bank of the Missouri River.
- c. Sales-by-package premises for the sale of malt liquor or non-intoxicating beer in the original package if the premises is located so that no residentially zoned property is within a radius of 600 feet from the premises as measured from the center of the door for the main entrance to the premises, and 80 percent or more of the gross sales on the premises are nonalcoholic beverage sales, and the applicant furnishes to the director, signed consents from the owners of a majority of property parcels under the provisions of section 10-214 of this chapter, provided that the applicable radius

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to determine eligible consenters for this exemption from the requirements of this section shall be 500 feet.

- (3) The determination of population contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premises, shall be made by adding the total population as determined by the most recent U.S. Decennial Census or, at the applicant's choice, by requesting from the City Planning and Development Department of Kansas City, Missouri, the Kansas City Population Update Report prepared and signed by the City's Planning and Development Department to determine population that is contained within the entire boundaries of each such United States census block. The determination of the number of licenses of a specific category located within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premises, shall be made by adding the total number of such licenses, located within the entire boundaries of each such United States census block, but excluding those licenses exempted under subsections (1)a., (1)b., (1)c., (2)a., and (2)b. of this section. The locations described in subsections 10-211(1)c. and (2)b. shall be excluded for purposes of determining the population and number of licenses contained in the U.S. census blocks wholly within or intersected by a 3,000-foot radius of a proposed sales-by-drink or sales-by-package premises. In connection with any application for a new license regulated under this section, for the purposes of determining the number of licenses in the categories regulated under this section, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises, all such city licenses existing at the time of the determination by the director, whether serving a suspension, under an order of non-renewal, under an order of suspension or revocation, or under investigation for, subject to or charged with disqualification from holding a license or a violation of the provisions of this chapter, shall be included in the calculation unless the non-renewal or revocation is final with all rights of appeal foreclosed.
- (4) If the total number of sales-by-drink or sales-by-package licenses herein issued at the time this chapter becomes effective exceeds the number authorized for that category of license, those licenses, if they meet all other requirements, shall be entitled to renewal on an annual basis. If a license is not renewed or ceases to fulfill all other requirements of this chapter and is thereafter terminated or canceled or expires, then an application for a new

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license for the previously licensed premises shall be required to fulfill all conditions of this chapter for an original license, including but not limited to the provisions of section 10-211 limiting the number of licenses. Additional licenses in a category shall not be issued until the time as the respective population ratios as calculated and determined under this section exceed the populations provided herein. A new license in a category, if the application meets all other requirements of this chapter, may be issued for a vacancy created by bona fide purchase or transfer of a license to a new premises located in a census block wholly within or intersected by a 3,000-foot radius from the existing licensed premises, as measured from the center of the door for the main entrance to the premises, so long as an application for a new license is filed within 12 months from the date of bona fide purchase or transfer. A licensee whose license has been surrendered, canceled or not renewed as a result of the transfer of the real property where the premises are located to an entity that has the power of eminent domain, and who files an application for a new license within 12 months from the date of the transfer of the real property shall be exempt from the requirements of this section with respect to a new location, but the licensee shall meet all other requirements of this chapter. For the purposes of this chapter, the center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the city two coordinates expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney