

ORDINANCE NO. 061312

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-62, Required hearings and review of director's actions, and 10-65, Judicial review of board decisions, and enacting in lieu thereof new sections of like number and subject matter.

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 Sections 10-62, Required hearings and review of director's actions, and 10-65, Judicial review of board decisions, and enacting in lieu thereof new sections of like number and subject matter, to read as follows:

Sec. 10-62. Required hearings and review of director's actions.

(a) If an application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter is disapproved by the director, or if an eligible consenter disputes the approval of a license or permit, or the location of premises proposed to be used for the sale of alcoholic beverages or C.O.L., then the applicant or eligible consenter, as the case may be, may file with the board, a written request for a hearing before the board on the denial or decision touching location, the request to be made by the applicant or eligible consenter, within 10 days after notice of the director's final decision. The applicant or eligible consenter, as the case may be, shall also serve a copy of said request on the director.

(b) In the case of action by the director seeking to suspend or revoke a license or permit issued under this chapter, the director shall:

- (1) File with the board, a written complaint setting forth the reasons for suspension or revocation of the license or permit, and requesting a hearing before the board to consider the action.
- (2) Serve a copy of said request on the licensee or permittee personally or by leaving a copy at the licensed premises or by mailing a copy of the request to the licensee or permittee at his last known address.

(c) Upon the filing of a written complaint or request for a hearing before the board as provided in this chapter, made within the time specified in this article, the board shall, within 20 days after the receipt of the request, notify the director and all other parties of the date, time and place for the hearing. The date of the hearing shall not be less than 20 days from the date the request was filed.

(d) Hearing procedures shall include but not be limited to the following:

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- (1) The applicant, licensee, permittee or eligible consenter shall have full right to have counsel, to produce witnesses and to cross examine all witnesses who may appear. All proceedings in the hearings shall be taken down stenographically, or recorded mechanically or electronically, or by a combination thereof, and shall be transcribed whenever required by law. Subpoenas shall be issued by the director or board for any witness whose presence is desired at any hearing or proceeding before the board to suspend or revoke a license or permit, or to issue or refuse a license or permit or renewal thereof, and the subpoena may be served by any person designated by the director or board, or by any member of the city police department. The subpoenas shall be served and return thereon shall be made in the same manner as is provided by law in civil suits in the circuit court of this state.
- (2) Witnesses may also appear voluntarily at the hearings and testify. Before testifying in any hearing or proceeding before the board, all witnesses shall be sworn to tell the truth and nothing but the truth.
- (3) With respect to a hearing before the board in connection with the directors action on an application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of ownership or change in management or control of the business under this chapter or a hearing before the board in connection with the directors action to seek suspension or revocation of a license or permit issued under this chapter, the board shall issue its decision in writing within 30 days following the conclusion of the hearing unless the parties agree to an extension which shall not exceed an additional 30 days.
- (4) The decision of the board shall include findings of facts and conclusions of law, wherein the board may dismiss the complaint, or suspend or revoke a license or permit previously issued, or affirm or reverse the director's issuance or denial of an application for an original license, or renewal or transfer of an existing license or permit or remand the matter to the director for further administrative review or action. The board's decision shall be served upon all the parties in person or by registered or certified mail to the party's last known address. If the board is not able to serve the decision notice upon a party in person or if any notice sent by mail is returned by the U.S. Postal service, then the board shall cause the notice to be posted at the principal entrance of the business or facility, and the posting shall constitute valid service. No suspension, revocation, or denial shall become effective until 10 days after the decision has been issued by the board. The board may stay enforcement of its decision for a period of time not to exceed 30 days to allow for the filing of an appeal of the decision.

Sec. 10-65. Judicial review of board decisions.

Following the issuance of a decision by the board including but not limited to suspending or revoking a license or permit, or approving or disapproving an application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of ownership or change in management or control of the business under this chapter, the licensee, permittee, applicant, eligible consenter, or the director may seek judicial review in a manner provided by law. The method of judicial review of any decision of the board shall be as provided in RSMo chapter 536.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney