

ORDINANCE NO. 050160

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-1, 10-104, 10-211 and 10-214, and enacting in lieu thereof new sections of like numbers and subject matters dealing with liquor licensing requirements.

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 10-1, 10-104, 10-211 and 10-214 and enacting in lieu thereof new sections of like numbers and subject matters, to read as follows:

**Sec. 10-1. Definitions.**

As used in this chapter:

*Alcohol Beverage Vaporizer* means any device which, by means of heat, a vibrating element or any method, is capable of producing a breathable mixture containing any one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose and/or mouth.

*Alcoholic beverages* means intoxicating liquor, malt liquor or nonintoxicating beer.

*Annual gross sales* means the gross sales shown on the prior year's state sales tax receipt or the prior year's convention and tourism tax filings or city occupational license tax receipt for an applicant or licensee.

*Board* means the liquor control board of review established by the city under this chapter to conduct regulatory hearings in connection with the administration and enforcement of the provisions of chapter 10 of the city's Code of Ordinances.

*Church* means any building or structure regularly and primarily used as a place of worship by any organized religious society, organization or congregation, regardless of whether or not the building or structure was originally designed and constructed for that purpose.

*Closed place* means a premises licensed under this chapter where all doors are locked and where no customers are in or about the premises.

*Coin-operated amusement device* means pinball machines, marble machines, music-vending machines, pool tables or machines, coin-operated shuffleboards and any other device operated by the insertion of a coin, disc or other insertion piece, whether or not also manipulated by the operator, and which operate for the amusement of the operator, whether or not by registering a score. It shall not include "slot machines," "claw

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machines," or other machines prohibited by state law. It shall not include machines or devices used bona fide and solely for the vending of service, food, confections or merchandise.

*C.O.L. license* means a license for the consumption of alcoholic beverages in or upon a premises which does not possess a license for the sale of alcoholic beverages and where food, beverages or entertainment are sold or provided for compensation as provided in RSMo 311.480.

*Commissioner* means the Commissioner of Revenue of Kansas City, Missouri, or person authorized and designated by the commissioner.

*Condominium* means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Convention hotel or motel* means any hotel or motel containing not less than 50 transient guestrooms, having a meeting room or similar facility with a seating capacity of not less than 50 persons and having a restaurant on the premises.

*Customer* means any person not an employee who enters or remains upon a licensed premises with actual or implied permission of the licensee or a person who purchases or otherwise partakes of any merchandise, goods, entertainment or other services offered upon the premises.

*Dancer* means any person performing a semi-nude dance, or who performs a dance for any customers upon the premises of an establishment that allows semi-nude dancing.

*Director* unless otherwise described, means the director of neighborhood and community services, or a person designated by the director.

*Dwelling* means any place that is used regularly or irregularly as a place of repose, sleep, rest or any place containing a bed, cot, divan, couch or any other article of furniture on which an adult person may recline. However, this shall not include any premises used as a hotel, motel, or hotel room.

*Eligible consenter* means an owner of property in Kansas City, Missouri which is wholly within or intersected by a specified radius from a proposed premises and allowed to consent to the location of the premises as set forth in this chapter and shall include the board of parks and recreation commissioners with respect to park property under its jurisdiction, but with respect to all other property owned by Kansas City, Missouri, or property owned by the federal government, the State of Missouri, and political subdivisions of the state, the city, the federal government, the State of Missouri, and political subdivisions of the state shall not be considered an eligible consenter and the

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property shall not be included in calculating the number of required consents.

*Employee* means and includes an agent or servant, and shall be construed to mean every person working for or performing services on behalf of the licensee during actual or scheduled work hours.

*High density office building* means an office building used exclusively for the administrative functions of business firms, professional groups or societies, or any combination of those organizations, under the conditions of section 80-90 of the Code of Ordinances.

*Intoxicating liquor or liquor* means alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparation or mixtures for beverage purposes containing in excess of 3.2 percent of alcohol by weight.

*Licensee* means the holder of any licenses issued under the provisions of this chapter.

*Location* means the property parcel upon which a licensed premises is situated.

*Malt liquor* means any beer or other malt beverage manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals and wholesome yeast and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content in excess of 3.2 percent by weight, but not in excess of 5 percent by weight.

*Managing officer* means the person(s) designated by the licensee who is in actual management and control of a business licensed under this chapter, and who would be eligible as an individual to receive a license for the sale of alcoholic beverages, and who is a qualified voter of the State of Missouri.

*Microbrewery* means a business whose activity is the brewing and selling of beer, with an annual production of 10,000 barrels or less.

*Nonintoxicating beer* means any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than 0.5 percent by volume, and not exceeding 3.2 percent of alcohol by weight.

*Original license* means any license issued under this chapter on an application for a new license whether or not the proposed premises was previously licensed under this chapter but shall not mean a renewal license.

*Original package* means any package containing 3 or more standard bottles or

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cans of malt liquor or nonintoxicating beer, a package containing 50 milliliters (1.7 ounces) or more of spirituous liquor and a package containing 100 milliliters (2.4 ounces) or more of vinous liquor in the manufacturer's original container. A standard bottle or can is any bottle or can containing 12 ounces or less of malt liquor or nonintoxicating beer.

*Permittee* means the holder of an employee's permit, issued under the provisions of this chapter.

*Person* means an individual, partnership, club or association, firm, limited liability company or corporation, unless the context requires a contrary interpretation.

*Place of entertainment* means any establishment which has occupancy capacity for at least 300 customers, annual gross sales in excess of \$250,000.00, and has been in operation for at least 1 year.

*Premises* means the bounds of the enclosure where alcoholic beverages are permitted to be sold, stored or consumed under the authority of this chapter.

*Restaurant-bar* means any establishment having a restaurant or similar facility on the premises which derives 50 percent or more of its annual gross sales from the sale of prepared meals and food made and consumed on the premises, or which has an annual gross sales of at least \$200,000.00 from the sale of prepared meals and food consumed on the premises. For the purposes of determining whether an establishment qualifies as a restaurant-bar under the provisions of this chapter and calculating the amount and percentage of annual gross sales from the sale of prepared meals and food, any nonalcoholic components mixed or served in any alcoholic beverage shall be considered to be part of the alcoholic beverage and shall not be considered to be prepared meals and food.

*School* means any building which is regularly used as a public, private or parochial school, elementary school or high school, college, university, professional school, business or secretarial school.

*Semi-nude dance* means any live exhibition, performance or dance by a person or persons in a state of dress in which opaque clothing covers no more than the areola of the female breast, the genitals or pubic region and anus, as well as portions of the body covered by straps or strings supporting that clothing.

*Substantial quantities of food* means the amount of prepared meals and food wherefrom at least 50 percent of the gross income of an establishment has been derived during the 3 most recent calendar months preceding. For the purposes of determining whether substantial quantities of prepared meals and food constitute at least 50 percent of the gross income of an establishment under the provisions of this chapter, and calculating the amount and percentage of annual gross income from the sale of prepared meals or food, any nonalcoholic components mixed or served in any alcoholic beverage shall be considered to be part of the alcoholic beverage and shall not be considered to be prepared

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meals or food.

*Unit* means a physical portion of a condominium designated for separate ownership or occupancy, the boundaries of which described in the declaration which creates the condominium.

*Unit owner* means a person who owns a condominium unit but does not include a person having an interest in a unit solely as security for an obligation.

**Sec. 10-104. Sunday licenses.**

A Sunday license authorizes the licensee to sell all kinds of alcoholic beverages by the drink for consumption on the licensed premises under the conditions and during the hours herein specified on Sunday in addition to the legal hours and days set out in section 10-333.

1. *Restaurant-bar Sunday license.*
  - a. A restaurant-bar Sunday license may be issued to applicants holding sections 10-102 and 10-103 sales-by-drink licenses whose premises qualify as a restaurant-bar as defined in section 10-1.
  - b. Every applicant for a restaurant-bar Sunday license shall furnish the director, in addition to the application, a notarized statement signed by the applicant showing that 50 percent or more of the gross sales for the year immediately preceding was derived from the sale of prepared meals and food consumed and made on the premises. An applicant who has not been in business 1 year but has been in business at least 90 days immediately preceding the application, shall furnish a notarized statement signed by the applicant showing that 50 percent or more of the gross sales during the 90-day period was derived from the sale of prepared meals and food consumed and made on the premises; provided, however, that the director may waive the 90-day period for a new business if requested by the applicant and the request is supported by documentation that the business will produce 50 percent or more of its gross sales from prepared meals and food consumed and made on the premises. If this waiver is granted, the applicant, after 90 days of operation, shall produce proof that the sales percentage required has been satisfied, and, if not, the restaurant-bar Sunday license will be canceled by the director without refund. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

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- c. Any licensee who has been issued a restaurant-bar Sunday licenses pursuant to this section may remain open and sell alcoholic beverages for consumption on the licensed premises between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday. A restaurant-bar Sunday licensee holding caterers' permits issued pursuant to section 10-105 may cater a function, occasion or event on Sunday during the hours which a restaurant-bar Sunday licensee may lawfully dispense intoxicating liquors.
  - d. Any licensee who has been issued a restaurant-bar Sunday license pursuant to this section, whose premises is located on the grounds of a sports stadium used primarily for professional sporting events may sell alcoholic beverages by the drink at retail for consumption on the premises between the hours of 8:00 a.m. on Sunday and 12:00 midnight on Sunday.
- (2) *Bowling alley Sunday license.*
- a. A bowling alley Sunday license authorizes the licensee holding sections 10-102 and 10-103 sales-by-drink licenses whose premises qualify as an amusement place as defined in section 10-104(b)(2)b to remain open and sell alcoholic beverages for consumption on the licensed premises between the hours of 1:00 p.m. on Sunday and 12:00 midnight on Sunday.
  - b. As used in this subsection, the term "amusement place" means any establishment whose business building contains a square footage of at least 10,000 square feet, and where games of skill commonly known as bowling are usually played, and which has annual gross receipts of at least \$200,000.00.
  - c. Every applicant for a bowling alley Sunday licenses shall furnish the director, in addition to the application, a notarized statement signed by the applicant showing that applicant's annual gross receipts exceed \$200,000.00 and that not more than 50 percent of the gross income for the year immediately preceding was derived from the sale of alcoholic beverages. An applicant who has not been in business at least 90 days immediately preceding the application may be issued a temporary 90-day bowling alley Sunday license by the director if the applicant furnishes to the director a notarized statement signed by the applicant showing a projection of annual business from game participation of at least 50 percent of a total gross business of at least \$200,000.00 for the first year of operation. If a temporary license is issued, the applicant, after 90 days of operation, shall produce proof that the sales percentage required has been satisfied, and, if not, the bowling

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alley Sunday license will be canceled without refund. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

- d. Nothing in this section shall be construed to permit the licensee of a bowling alley to sell intoxicating liquor, malt liquor or non-intoxicating beer for off-premises consumption.
  - e. Nothing in this section shall be construed to amend or repeal the regulation of alcoholic beverages in the players' and spectators' areas of bowling establishments provided for in section 12-6(5).
- (3) *Common eating and drinking area Sunday license.* A common eating and drinking area Sunday license authorizes the licensee holding a section 10-108 license not for consumption on the premises where sold but for consumption in a common eating and drinking area, as described in the application for the license, to remain open and sell alcoholic beverages between the hours of 1:00 p.m. on Sunday and 12:00 midnight on Sunday.
- (4) *Nonprofit organization Sunday license.*
- a. A nonprofit organization Sunday license authorizes the licensee to remain open and sell alcoholic beverages for consumption on the premises only between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday.
  - b. Every applicant for a nonprofit organization Sunday license must qualify as a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes and must meet the other requirements of RSMo 311.090(2) and must be qualified to conduct business in the state and must be either chartered or operating for a period of not less than one year prior to the date of application.
  - c. Admission to a nonprofit organization premises when intoxicating liquors will be dispensed under this section shall be limited to enrolled and dues-paying members, and their guests, but only if the guest or guests are accompanied by a member. A register containing the names and dates of admission of all admitted guests shall be maintained and available to inspection by the director or his agents at all times during the hours provided by this section and at other reasonable times.

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- (5) *Place of entertainment Sunday license.* A place of entertainment Sunday license authorizes the licensee to remain open and sell alcoholic beverages for consumption on the premises between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday.
- (6) *Full package sales Sunday license.* A full package sales Sunday license authorizes the licensee to remain open and sell alcoholic beverages between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday.
- (7) *Airline Club Sunday license.* An establishment meeting the requirements of chapter 311 RSMo for an Airline Club is eligible for a city Airline Club Sunday license that authorizes the licensee to remain open and sell alcoholic beverages for consumption on the premises between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday.
- (8) *Kansas City Sports Stadiums.* Notwithstanding any other provisions of this chapter to the contrary, any restaurant bar licensed under the provisions of this section which is located on the grounds of a sports stadium primarily used for professional sporting events may sell intoxicating liquor by the drink at retail for consumption within the premises of the restaurant bar on Sunday between the hours of 8:00 a.m. and midnight.

**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

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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 applicant, 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-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

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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 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.

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- (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.
- (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 in the city, which abut the Missouri/Kansas state line, 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 Missouri/Kansas state line, 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 applicant, 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 nonalcohol 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

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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 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 nonintoxicating beer in the original package if the premises is located so that no residentially zoned property is within a radius of

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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 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 to be 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 Kansas City, Missouri, 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 Kansas City, Missouri, 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 nonrenewal, 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 nonrenewal 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

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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 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 applicant, 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.

**Sec. 10-214. Consents required for sales-by-drink, C.O.L. or sales-by-package licenses.**

(a) *Consent of neighboring property owners.* No sales-by-drink, C.O.L. or sales-by-package alcoholic beverage license shall be issued for any premises, including a new premises or a premises that was previously licensed, or for the expansion of an existing licensed premises unless the applicant shall, within 45 days of the filing of the application, furnish to the director, signed consents from the owners of a majority of property parcels as defined by Geographic Information Systems maps based on the North American Datum 1983 Missouri West State Plane Coordinate System, maintained by the public works department of the city, wholly within or intersected by a radius of 250 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises, except that any parcel of such real estate on which a retail sales-by-drink, C.O.L. or sales-by-package license is situated and any parcel of real estate owned by the city, except park property, shall not be included in the calculation. The center of the door for the main entrance to the premises shall be determined by the

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entrance naturally used by the public frequenting the establishment. The applicant shall furnish to the director with the application, 2 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. If within the initial 45 day period for furnishing consents, an applicant files with the director a written request demonstrating good cause for an extension of time to furnish consents, the director may grant 1 extension of time for furnishing consents under this section up to an additional 45 days. For purposes of this section, a condominium as defined in this chapter, shall be considered as a single property parcel entitled to a single consent, which consent shall be validated if signed by the unit owners of a majority of the condominium units. In lieu of a signed consent from an eligible property owner under this section, an applicant may furnish and the director shall accept a signed consent in proper form from a tenant of the property owner under the following conditions:

- (1) That the tenancy is for a term not less than 1 year; and
- (2) That applicant shall furnish to the director sufficient proof that the applicant has sent a notification to the eligible consenting owner in a form approved by the director, by U.S. Certified mail; and
- (3) That the notification shall include the date of application, name and address of the applicant, the name and address of the proposed establishment, the type of license applied for, the proposed hours of operation, the proposed type of entertainment, if any, a statement that if the owner does not file an objection with director within 30 days of the date of the certified mailing of the notification, then the director will accept the signed consent of the tenant, the name, address, telephone and facsimile numbers of the director's office and instructions to the property owner for filing an objection to accepting the signed consent of the tenant.

(b) *Notification of application.* The director shall mail written notification of the filing an application for a license under this section to all eligible consenters identified for the application and owners of property parcels located in Kansas City, Missouri as defined by Geographic Information Systems maps based on the North American Datum 1983 Missouri West State Plane Coordinate System, maintained by the public works department of the city, wholly within or intersected by a radius of 350 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. The director shall mail written notification of the filing of an application for a license under this section to all neighborhood associations registered with the city planning and development department whose boundaries are wholly within or intersected by a radius of 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. Director will mail consent forms to the applicant at the same time the director mails the written notification of application to the eligible consenters and the appropriate registered neighborhood associations.

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(c) Within 45 days of the filing of an application for a retail sales-by-drink, C.O.L. or sales-by-package license, if the owners of not less than 50 percent of the property parcels wholly within or intersected by a radius of 350 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises file with the director a petition requesting a hearing before the director on whether the issuance of the license or sales permit will be in the best interests of the locality involved, then the director shall notify the applicant and property owners of the date, time and place of a hearing to determine the issue based on the factors set forth in section 10-241 of this chapter. If within the initial 45 day period for furnishing consents, an applicant files with the director a written request demonstrating good cause for an extension of time to furnish consents, and the director has granted the applicant 1 extension of time for furnishing consents under this section up to an additional 45 days, then the director shall allow the same amount of additional time to file a petition under this subsection.

(d) The radius of 250 feet provided in subsection (a) of this section shall be increased to 500 feet for sales-by-package alcoholic beverage licenses for malt liquor or nonintoxicating beer in the original package if the applicant invokes the exemption from the density provisions contained in Section 10-211 (2) c of this chapter.

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Approved as to form and legality:

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Kathy A. Adams  
Assistant City Attorney