

ORDINANCE NO. 160281

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-104, 10-106, and 10-214 in order to maximize input from as many eligible consenters as possible when they are asked to give their consent for a liquor license to be issued as required by ordinance.

WHEREAS, there are areas in the city where one person or a small number of people own a large number of parcels in an area whereby controlling whether a liquor license applicant will receive their consent and be able to receive a liquor license; and

WHEREAS, Regulated Industries Division has seen an increase in the number of instances where one person or a small number of people are in control of the neighborhood as they decide whether or not a liquor licensed business will be allowed to open; and

WHEREAS, Regulated Industries Division has heard from an increasing number of liquor license applicants that one person or a small number of people will not give their consent for them to receive a liquor license unless they enter into a conditional liquor license agreement which the business owner feels will ultimately be detrimental to their business; NOW, THEREFORE,

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 10-104, 10-106, and 10-214, and enacting in lieu thereof new sections to read as follows:

Sec. 10-104. Sunday licenses.

(a) A Sunday license authorizes the licensee to sell alcoholic beverages at retail 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 except, if the licensee holds a valid license or permit pursuant to the provisions of section 10-106, then the licensee may be open for business in accordance with the provisions of the license or permit.

(b) *Consents required.* Unless stated otherwise in section 10-215, no Sunday alcoholic beverage license shall be issued for any premises as further described in this section unless the applicant shall, within 45 days of the filing of the application, furnish to the director, consent forms signed from a majority of eligible consenters as defined in this chapter from a minimum of 15 eligible 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

ORDINANCE NO. 160281

the city, except park property, shall not be included in the calculation. For any premises that does not either intersect or include the boundaries of a minimum of 15 eligible property parcels within a radius of 250 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 15 eligible property parcels. No more than ten percent (10%) of the eligible property parcels included in the consent radius shall be comprised of property parcels that are owned by the same person, as person is defined in this chapter, or owned by an entity in which the same person has a majority ownership interest therein. If the same person, or an entity in which the same person has a majority ownership interest therein, owns multiple parcels within the boundaries of the consent radius, only their property parcels located within the closest proximity to the proposed premises, which account for ten percent (10%) or less of the total eligible property parcels, will be included in the consent radius. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public visiting the establishment. The applicant must provide a notarized statement that all consent forms submitted to the director are from the property owners or tenants, as described in this section, that have been identified as eligible consenters. The consent requirement provided in this section shall apply to:

- (1) Any new premises;
- (2) Any premises adding a Sunday license.

(c) An applicant required to submit consents to the director shall furnish with the application 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. 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 one extension of time for furnishing consents under this section up to an additional 45 days. If an eligible consenter chooses to abstain from giving their consent, they will not be included in the total number of eligible consenters for which the applicant must obtain consents, however, the applicant must furnish a signed consent form from the property owner indicating that they have chosen to abstain from the consent process. For purposes of this section, a condominium as defined in this chapter that has less than five unit owners shall be considered as a single property parcel entitled to a single consent, which consent shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has between five and 15 unit owners shall be considered as a single property parcel entitled to two consents which shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has more than 15 unit owners shall be considered as a single property parcel entitled to three consents which shall be validated only if a majority of the condominium unit owners give their consent. 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 one year; and

ORDINANCE NO. 160281

- (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, e-mail 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.

(d) *Notification of application.* The director shall mail written notification of the filing of 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. The 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.

(e) *Form of consent.* Consents required under the provisions of this section shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible consenter under the provisions of this section.

(f) *Hearing.* If within 45 days of the filing of an application for a retail sales-by-drink, C.O.L. or sales-by-package license, 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 one extension of time for furnishing consents under this section up to an

ORDINANCE NO. 160281

additional 45 days, then the director shall allow the same amount of additional time to file a petition under this subsection.

(g) *Failure to obtain consents.* The director shall not accept an application for a premise where any applicant has failed to successfully complete the consent process, including any withdrawals of an application, two times within a 12-month period unless 12 months have passed from the date of the most recent withdrawal or denial by the director.

(h) *Sunday license types and requirements.*

(1) *Retail sales by drink Sunday license.* A retail sales by drink Sunday license authorizes the licensee to sell the same kinds of alcoholic beverages by the drink as authorized by the license holder's retail sales by drink license for consumption on the licensed premises between the hours of 9:00 a.m. on Sunday and 12:00 midnight on Sunday.

(2) *Retail sales by package Sunday license.* A retail sales by package Sunday license authorizes the licensee to sell the same kinds of alcoholic beverages as authorized by the license holder's retail sales by package license between the hours of 9:00 a.m. on Sunday and 12:00 midnight on Sunday.

Sec. 10-106. Extended hours permits.

(a) *Convention trade area 3:00 a.m. closing permit—Eligibility.*

(1) A convention trade area 3:00 a.m. closing permit, authorized by RSMo § 311.174, authorizes the licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink license to remain open between 1:30 am. and 3:00 a.m., if:

a. The applicant's business is located within the convention trade area. Pursuant to RSMo § 311.174, the city's convention trade area is hereby designated as all that territory within the corporate limits of the city; and

b. The applicant's business is a convention hotel or motel or the applicant's business is not a convention hotel or motel but is located not more than 1.5 drivable miles as measured from the outside walls of a hotel, defined as any structure, or building, under one management, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being so provided, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests or permanent guests, and having more than 100 bedrooms furnished for the accommodation of such guests, and the

ORDINANCE NO. 160281

applicant's annual gross sales at said business for the year immediately preceding the application for a 3:00 a.m. closing permit equals \$125,000.00 or more; provided, however, that the director may waive the foregoing gross sales requirement for a business located in the downtown economic entertainment district if requested by the applicant and the request is supported by documentation that the business should produce annual gross sales equal to \$125,000.00 or more. If this waiver is granted, the applicant, after 90 days of operation, shall produce proof that the gross sales for said 90 days of operation, when projected on an annualized basis by multiplying the gross sales for the 90 days of operation times four, will be satisfied, and, if not, the 3:00 a.m. closing permit 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. Any convention hotel or motel or business that has a current convention trade area 3:00 a.m. closing permit that does not meet the requirement of having annual gross sales equal to or greater than \$125,000.00 at the time their 3:00 a.m. permit is up for renewal after the ordinance from which this section derives has passed will have one year thereafter to fulfill the \$125,000.00 annual gross sales requirement.

- c. A convention hotel or motel that has a current convention trade area 3:00 a.m. closing permit but has fewer than 100 transient guestrooms or a business that has a current convention trade area 3:00 a.m. closing permit which is located more than 1.5 drivable miles from a convention hotel or motel will be allowed to maintain its convention trade area 3:00 a.m. closing permit as long as all other requirements of this chapter have been met.
 - d. The director may report to the city council once every three years to make recommendations on adjusting the annual gross sales requirement.
- (2) Unless stated otherwise in section 10-215, the applicant shall, within 45 days of the filing of the application, furnish to the director, consent forms signed from a majority of eligible consenters as defined in this chapter from a minimum of 30 eligible property parcels located in the city 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. For any premises that does not either intersect or include the boundaries of a minimum of 30 eligible property parcels within a radius of 500 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or

ORDINANCE NO. 160281

within the boundaries of a minimum of 30 eligible property parcels. No more than ten percent (10%) of the eligible property parcels included in the consent radius shall be comprised of property parcels that are owned by the same person, as person is defined in this chapter, or owned by an entity in which the same person has a majority ownership interest therein. If the same person, or an entity in which the same person has a majority ownership interest therein, owns multiple parcels within the boundaries of the consent radius, only their property parcels located within the closest proximity to the proposed premises, which account for ten percent (10%) or less of the total eligible property parcels, will be included in the consent radius. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. The applicant shall furnish to the director with the application, 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. 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 one extension of time for furnishing consents under this section up to an additional 45 days. If an eligible consenter chooses to abstain from giving their consent, they will not be included in the total number of eligible consenters for which the applicant must obtain consents; however, the applicant must furnish a signed consent form from the property owner indicating that they have chosen to abstain from the consent process. The applicant must provide a notarized statement that all consent forms submitted to the director are from the property owners or tenants, as described in this section, that have been identified as eligible consenters and that no eligible consenter or tenant of an eligible consenter has received, either directly or indirectly, anything of value which may include but is not limited to any gift, compensation, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent. For purposes of this section, a condominium as defined in this chapter that has less than five unit owners shall be considered as a single property parcel entitled to a single consent, which consent shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has between five and 15 unit owners shall be considered as a single property parcel entitled to two consents which shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has more than 15 unit owners shall be considered as a single property parcel entitled to three consents which shall be validated only if a majority of the condominium unit owners give their consent. 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:

ORDINANCE NO. 160281

- a. That the tenancy is for a term not less than one year; and
 - b. That the 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
 - c. 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 or permit 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, that 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.
- (3) The director shall provide written notification of the filing of an application for a license or permit under this section to all eligible consenters identified for the application and owners of property parcels located in the city, 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. The director shall provide written notification of the filing of an application for a license or permit under this section to all to 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.
- (4) *Form of consent.* Consents required under the provisions of this section shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible conserter under the provisions of this section. Any consent form that has been submitted from an eligible conserter or tenant of an eligible conserter who has received, either directly or indirectly, anything of value which may include but is not limited to compensation, gift, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent will become null and void and therefore will not be accepted.
- (5) *Package sales.* No retail licensee holding a convention trade area 3:00 a.m. closing permit pursuant to this section, nor employee of the licensee, shall sell, give away, otherwise dispose of or allow the

ORDINANCE NO. 160281

removal from the licensed premises any alcoholic beverages in the original package or suffer the same to be done on or about the licensed premises:

- a. Between the hours of 1:30 a.m. and 6:00 a.m. Tuesday through Saturday;
 - b. Between the hours of 12:00 midnight Sunday and 6:00 a.m. Monday.
- (6) Notwithstanding the limitations contained in subsection (a)(1)b. herein, a sales by drink establishment licensed under this chapter located in 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 that has annual gross sales of \$125,000.00 or more for the year immediately preceding the application for a 3:00 a.m. closing permit and meets all other requirements herein is eligible for such permit.

(b) *Temporary 3:00 a.m. closing permit—Eligibility.*

- (1) A temporary 3:00 a.m. closing permit, authorized by RSMo § 311.088, authorizes the licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink license to remain open between 1:30 a.m. and 3:00 a.m. within one 24-hour period. Any licensee granted a temporary 3:00 a.m. closing permit shall only be authorized to receive up to six such special permits in a calendar year. Up to six temporary 3:00 a.m. closing permits may be issued every calendar year if the licensee meets the following one time requirement:
 - a. Unless stated otherwise in section 10-215, the applicant shall, within 45 days of the filing of the application, furnish to the director, consent forms signed from a majority of eligible consenters as defined in this chapter from a minimum of 30 eligible property parcels located in the city 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. For any premises that does not either intersect or include the boundaries of a minimum of 30 eligible property parcels within a radius of 500 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 30 eligible property parcels. No more than ten percent (10%) of the eligible property parcels included in the consent radius shall be comprised of property

ORDINANCE NO. 160281

parcels that are owned by the same person, as person is defined in this chapter, or owned by an entity in which the same person has a majority ownership interest therein. If the same person, or an entity in which the same person has a majority ownership interest therein, owns multiple parcels within the boundaries of the consent radius, only their property parcels located within the closest proximity to the proposed premises, which account for ten percent (10%) or less of the total eligible property parcels, will be included in the consent radius. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. The applicant shall furnish to the director with the application, 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. 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 one extension of time for furnishing consents under this section up to an additional 45 days. If an eligible consenter chooses to abstain from giving their consent, they will not be included in the total number of eligible consenters for which the applicant must obtain consents; however, the applicant must furnish a signed consent form from the property owner indicating that they have chosen to abstain from the consent process. The applicant must provide a notarized statement that all consent forms submitted to the director are from the property owners or tenants, as described in this section, that have been identified as eligible consenters and that no eligible consenter or tenant of an eligible consenter has received, either directly or indirectly, anything of value which may include but is not limited to any gift, compensation, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent. For purposes of this section, a condominium as defined in this chapter that has less than five unit owners shall be considered as a single property parcel entitled to a single consent, which consent shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has between five and fifteen unit owners shall be considered as a single property parcel entitled to two consents which shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has more than 15 unit owners shall be considered as a single property parcel entitled to three consents which shall be validated only if a majority of the condominium unit owners give their consent. In lieu of a signed consent from an eligible property owner under this section, an applicant may furnish and

ORDINANCE NO. 160281

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 one year; and
 2. That the 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 or permit 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, that 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.
- (2) The director shall provide written notification of the filing of an application for a license or permit under this section to all eligible consenters identified for the application and owners of property parcels located in the city, 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. The director shall provide written notification of the filing of an application for a license or permit under this section to all to 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.
- (3) *Form of consent.* Consents required under the provisions of this section shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible consenter under the provisions of this section. Any consent form that has been submitted from an eligible consenter or tenant of an eligible consenter who has received, either directly or indirectly, anything of value which may include but is not limited to compensation, gift, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent will become null and void and therefore will not be accepted.

ORDINANCE NO. 160281

- (4) *Package sales.* No retail licensee holding a temporary 3:00 a.m. closing permit pursuant to this section, nor employee of the licensee, shall sell, give away, otherwise dispose of or allow the removal from the licensed premises any alcoholic beverages in the original package or suffer the same to be done on or about the licensed premises:
- a. Between the hours of 1:30 a.m. and 6:00 a.m. Tuesday through Saturday;
 - b. Between the hours of 12:00 midnight Sunday and 6:00 a.m. Monday.
- (c) *Nonprofit organization 6:00 a.m. closing permit—Eligibility.*
- (1) A nonprofit organization 6:00 a.m. closing permit authorized by RSMo § 311.174 authorizes a licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink to remain open between 1:30 a.m. and 6:00 a.m., if:
- a. The applicant is a nonprofit organization exempt from federal income taxes under section 501(C)(7) of the Internal Revenue Code of 1986 as amended; and
 - b. The applicant is located in a building designated as a National Historic Landmark by the United States Department of Interior; and
 - c. The applicant's business is located within the convention trade area. Pursuant to RSMo § 311.174, the city's convention trade area is hereby designated as all that territory within the corporate limits of the city.
- (2) Unless stated otherwise in section 10-215, the applicant shall, within 45 days of the filing of the application, furnish to the director, consent forms signed from a majority of eligible consenters as defined in this chapter from a minimum of 30 eligible property parcels located in the city 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. For any premises that does not either intersect or include the boundaries of a minimum of 30 eligible property parcels within a radius of 500 feet, the radius will be increased by segments of 100 feet not to exceed 1500 feet until the premises is intersected by or within the boundaries of a minimum of 30 eligible property parcels. No more than ten percent (10%) of the eligible property parcels included in

ORDINANCE NO. 160281

the consent radius shall be comprised of property parcels that are owned by the same person, as person is defined in this chapter, or owned by an entity in which the same person has a majority ownership interest therein. If the same person, or an entity in which the same person has a majority ownership interest therein, owns multiple parcels within the boundaries of the consent radius, only their property parcels located within the closest proximity to the proposed premises, which account for ten percent (10%) or less of the total eligible property parcels, will be included in the consent radius. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. The applicant shall furnish to the director with the application, 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. 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 one extension of time for furnishing consents under this section up to an additional 45 days. If an eligible consenter chooses to abstain from giving their consent, they will not be included in the total number of eligible consenters for which the applicant must obtain consents, however, the applicant must furnish a signed consent form from the property owner indicating that they have chosen to abstain from the consent process. The applicant must provide a notarized statement that all consent forms submitted to the director are from the property owners or tenants, as described in this section, that have been identified as eligible consenters and that no eligible consenter or tenant of an eligible consenter has received, either directly or indirectly, anything of value which may include but is not limited to any gift, compensation, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent. For purposes of this section, a condominium as defined in this chapter that has less than five unit owners shall be considered as a single property parcel entitled to a single consent, which consent shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has between five and 15 unit owners shall be considered as a single property parcel entitled to two consents which shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has more than 15 unit owners shall be considered as a single property parcel entitled to three consents which shall be validated only if a majority of the condominium unit owners give their consent. 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:

- a. That the tenancy is for a term not less than one year; and

ORDINANCE NO. 160281

- b. That the 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
 - c. 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 or permit 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, that 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.
- (3) The director shall provide written notification of the filing of an application for a license or permit under this section to all eligible consenters identified for the application and owners of property parcels located in the city, 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 500 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. The director shall provide written notification of the filing of an application for a license or permit under this section to all to 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; and
- (4) *Form of consent.* Consents required under the provisions of this section shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible conserter under the provisions of this section. Any consent form that has been submitted from an eligible conserter or tenant of an eligible conserter who has received, either directly or indirectly, anything of value which may include but is not limited to compensation, gift, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent will become null and void and therefore will not be accepted.
- (5) *Package sales.* No retail licensee holding a nonprofit organization 6:00 a.m. closing permit pursuant to this section, nor employee of the licensee, shall sell, give away, otherwise dispose of or allow the removal from the licensed premises any alcoholic beverages in the

ORDINANCE NO. 160281

original package or suffer the same to be done on or about the licensed premises:

- a. Between the hours of 1:30 a.m. and 6:00 a.m. Tuesday through Saturday;
- b. Between the hours of 12:00 midnight Sunday and 6:00 a.m. Monday.

Sec. 10-214. Consents required.

(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 as further described in this section unless the applicant shall, within 45 days of the filing of the application, furnish to the director, consent forms signed from a majority of eligible consenters as defined in this chapter from a minimum of 15 eligible 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. For any premises that does not either intersect or include the boundaries of a minimum of 15 eligible property parcels within a radius of 250 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 15 eligible property parcels. No more than ten percent (10%) of the eligible property parcels included in the consent radius shall be comprised of property parcels that are owned by the same person, as person is defined in this chapter, or owned by an entity in which the same person has a majority ownership interest therein. If the same person, or an entity in which the same person has a majority ownership interest therein, owns multiple parcels within the boundaries of the consent radius, only their property parcels located within the closest proximity to the proposed premises, which account for ten percent (10%) or less of the total eligible property parcels, will be included in the consent radius. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. The applicant must provide a notarized statement that all consent forms submitted to the director are from the property owners or tenants, as described in this section, that have been identified as eligible consenters and that no eligible consenter or tenant of an eligible consenter has received, either directly or indirectly, anything of value which may include but is not limited to any gift, compensation, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent. The consent requirement provided in this section shall apply to:

- (1) Any new premises;
- (2) Any premises that was previously licensed;
- (3) The expansion of any licensed premises;

ORDINANCE NO. 160281

- (4) Notwithstanding any other section of this chapter, any previously licensed or permitted premise where the license or permit was revoked;
- (5) Any licensed premises, including but not limited to a restaurant, tavern, hotel, bowling alley, grocery store, convenience store, that changes the type of business that was originally approved by the director;
- (6) Any premises intending to provide live entertainment as outlined in section 10-332 of this chapter; and
- (7) Any change in ownership of a licensed premises that meets the requirements outlined in section 10-266 of this chapter,

(b) An applicant required to submit consents to the director shall furnish with the application 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. 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 one extension of time for furnishing consents under this section up to an additional 45 days. An eligible consenter who originally gave their consent for a liquor license may withdraw their consent but only during the consent period by notifying the director in writing stating their desire to withdraw their consent. If an eligible consenter chooses to abstain from giving their consent, they will not be included in the total number of eligible consenters for which the applicant must obtain consents; however, the applicant must furnish a signed consent form from the property owner indicating that they have chosen to abstain from the consent process. For purposes of this section, a condominium as defined in this chapter that has less than five unit owners shall be considered as a single property parcel entitled to a single consent, which consent shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has between five and 15 unit owners shall be considered as a single property parcel entitled to two consents which shall be validated only if a majority of the condominium unit owners give their consent. A condominium unit that has more than 15 unit owners shall be considered as a single property parcel entitled to three consents which shall be validated only if a majority of the condominium unit owners give their consent. 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 one 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

ORDINANCE NO. 160281

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.

(c) *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. The 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.

(d) *Form of consent.* Consents required under the provisions of this section shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible conserter under the provisions of this section. Any consent form that has been submitted from an eligible conserter or tenant of an eligible conserter who has received, either directly or indirectly, anything of value which may include but is not limited to compensation, gift, loan, favor, privilege, service, courtesy or otherwise, in exchange for their consent will become null and void and therefore will not be accepted.

(e) 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 one 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.

ORDINANCE NO. 160281

(f) 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.

(g) *Failure to obtain consents.* The director shall not accept an application for a premise where any applicant has failed to successfully complete the consent process two times within a 12-month period unless 12 months have passed from the date of the most recent denial by the director or withdrawal by an applicant of an application.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney