

ORDINANCE NO. 071255

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-1, Definitions, and 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof new sections of like number and subject matter which adds the definition of a Kansas City Population Update Report and under 10-211(3) adds the option for an applicant to request a Kansas City Population Update Report in place of the most recent U.S. Decennial Census as the Kansas City Population Update Report may provide a more up to date report of the population in the requested area.

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, Definitions, and 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof new sections of like number and subject matter, 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.

*All-age concert* means a live musical performance by one or more individuals playing instruments and or vocalists accompanied by live music to which admission tickets are sold to the public and is advertised as a performance which admits persons under the age of 21.

*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.

*Caterer* means any establishment whose primary business is the preparation of food and drinks for consumption away from the licensed premises. A caterer must derive 50 percent or more of its annual gross sales from the sale of prepared meals and food consumed at other approved premises. For the purposes of determining whether an

ORDINANCE NO. 071255

establishment qualifies as a caterer 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.

*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-or-currency-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, currency, 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 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.

*Concert venue* means any establishment used for the presentation of live musical performances, pre-advertised to the public including pre-event tickets sales available through third party ticket vendors, and where total ticket sales exceed \$100,000.00 per year.

*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.

ORDINANCE NO. 071255

*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 consentor* means an owner of property in the city 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 the city, or property owned by the federal government, the state, and political subdivisions of the state, the city, the federal government, the state, and political subdivisions of the state shall not be considered an eligible consentor and the 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.

*Kansas City Population Update Report* means a report prepared and signed by the City Planning and Development Department of Kansas City, Missouri that will provide an estimated population for a designated area based on housing units reflected in building permits for new construction and non-residential conversions to housing units minus the housing units reflected in permits for demolition of housing and then multiplied by the

ORDINANCE NO. 071255

percentage of housing units that were occupied in all census blocks based on the most recent U.S. Decennial Census and multiplied by the average persons per household based on the most recent U.S. Decennial Census and added to the population from the most recent U.S. Decennial Census. This report will be obtained by the applicant who will be responsible for any costs that may be associated with the preparation of this report.

*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 five 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.

*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 three or more standard bottles or 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.

ORDINANCE NO. 071255

*Place of amusement* means any establishment whose primary business is to offer games of skill or sport, such as bowling alleys and golf courses.

*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 one 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, including any outside area regularly used as a play or assembly area, 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 three 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 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.

ORDINANCE NO. 071255

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

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

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

ORDINANCE NO. 071255

and the total amount of gross receipts from the sale of prepared meals and food made and consumed on the premises for the 90-day period immediately following the date of the issuance of the license, and thereafter for the 12-month period immediately preceding November 1 of each year. The statements shall be filed within 15 days after the expiration of the 90-day period and with each annual renewal application. Upon proper and sufficient evidence submitted to the director, the director shall summarily cancel or refuse to renew the license upon the failure of the licensed premises for a period of one year after issuance or renewal of the license to maintain an average of 50 percent or more of its total gross receipts in sales of prepared meals and food made and consumed on the premises. Cancellation as provided in this subsection by the director of any license issued under this subsection shall not be deemed a revocation and shall not disqualify the licensee from applying for and receiving any license granted under the provisions of this chapter. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

- c. Sales-by-drink premises located wholly within the following described locations:
  - (i) That area bounded by, including and beginning from the intersecting point of the block face frontage of the west side of Broadway Boulevard and including the block face frontage of I-70 on the north, thence east along the block face frontage of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes 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

ORDINANCE NO. 071255

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

- (ii) The east and west sides of N.W. Prairie View Road, north of N.W. Barry Road extending north to Missouri Highway 152, on the north and south sides of N.W. Prairie View Road, west of the intersection of Interstate 29 and Highway 152 extending west to N. Congress Avenue, and at the southwest corner of Highway 152 and N. Congress Avenue.
- (2) Retail sales-by-package licenses. For any retail sales-by-package license located within the entire boundaries of any United States census blocks located within 3,000-feet of the city limits of Kansas City, Missouri, two retail sale-by-package licenses may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. For all other census blocks located in the city, that do not abut the city limit lines as described above, one retail sale-by-package license may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which

ORDINANCE NO. 071255

exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises. The center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the director two coordinates expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises. The limitations provided in this section shall not apply to:

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

ORDINANCE NO. 071255

the intersecting point of and including the west side of the Heart of America Bridge, thence south along the block face frontage of the west side of the Heart America Bridge to the intersecting point of and including the block face frontage of the north side of I-70 on the north, thence east along the block face frontage of the north side of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes Avenue, thence south along the block face frontage of the east side of Holmes Avenue to the intersecting point of and including the block face frontage of the south side of 24th Street, thence west along the block face frontage of the south side of 24th Street to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard, thence north along the block face frontage of the west side of Broadway Boulevard to the intersecting point of the west side of the Broadway Bridge and the south bank of the Missouri River.

- c. Sales-by-package premises for the sale of malt liquor or non-intoxicating beer in the original package if the premises is located so that no residentially zoned property is within a radius of 600 feet from the premises as measured from the center of the door for the main entrance to the premises, and 80 percent or more of the gross sales on the premises are nonalcoholic beverage sales, and the applicant furnishes to the director, signed consents from the owners of a majority of property parcels under the provisions of section 10-214 of this chapter, provided that the applicable radius to determine eligible consenters for this exemption from the requirements of this section shall be 500 feet.
- (3) The determination of population contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premises, shall be made by adding the total population as determined by the most recent U.S. Decennial Census or, at the applicant's choice, by requesting from the City Planning and Development Department of Kansas City, Missouri, the Kansas City Population Update Report prepared and signed by the City's Planning and Development Department to determine population that is contained within the entire boundaries of each such United States census block. The determination of the number of licenses of a specific category located

ORDINANCE NO. 071255

within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premises, shall be made by adding the total number of such licenses, located within the entire boundaries of each such United States census block, but excluding those licenses exempted under subsections (1)a., (1)b., (1)c., (2)a., and (2)b. of this section. The locations described in subsections 10-211(1)c. and (2)b. shall be excluded for purposes of determining the population and number of licenses contained in the U.S. census blocks wholly within or intersected by a 3,000-foot radius of a proposed sales-by-drink or sales-by-package premises. In connection with any application for a new license regulated under this section, for the purposes of determining the number of licenses in the categories regulated under this section, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door for the main entrance to the premises, all such city licenses existing at the time of the determination by the director, whether serving a suspension, under an order of non-renewal, under an order of suspension or revocation, or under investigation for, subject to or charged with disqualification from holding a license or a violation of the provisions of this chapter, shall be included in the calculation unless the non-renewal or revocation is final with all rights of appeal foreclosed.

- (4) If the total number of sales-by-drink or sales-by-package licenses herein issued at the time this chapter becomes effective exceeds the number authorized for that category of license, those licenses, if they meet all other requirements, shall be entitled to renewal on an annual basis. If a license is not renewed or ceases to fulfill all other requirements of this chapter and is thereafter terminated or canceled or expires, then an application for a new 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

ORDINANCE NO. 071255

that has the power of eminent domain, and who files an application for a new license within 12 months from the date of the transfer of the real property shall be exempt from the requirements of this section with respect to a new location, but the licensee shall meet all other requirements of this chapter. For the purposes of this chapter, the center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the city two coordinates expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises.

---

Approved as to form and legality:

---

Kathy Adams  
Assistant City Attorney