

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120003

Amending Chapter 10, Code of Ordinances, by repealing section 10-104, Sunday licenses, and enacting in lieu thereof a new section of like number and subject matter which will allow wine manufacturers to apply for and receive a sales-by-drink Sunday license.

WHEREAS, there has recently been an increase in the number of wine manufacturers in the City of Kansas City, Missouri; and

WHEREAS some wine manufacturers would like to have the ability to sell the alcoholic beverages they manufacturer to the public by the drink on-site on Sunday; 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, Sunday licenses and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 10-104. Sunday licenses.

(a) 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 except if licensee holds a valid license or permit pursuant to the provisions of section 10-106 then 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 and notarized from a majority of eligible consenters as defined in this chapter from a minimum of 15 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. For any premises that does not either intersect or include the boundaries of a minimum of 15 property parcels within a radius of 250 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 15 property parcels. The center of the door for the main entrance to the

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premises shall be determined by the entrance most used by the public visiting the establishment. 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 and notarized 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 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 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 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.

(d) *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

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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. Each signature on a consent shall be verified before a notary public.

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

(g) *Sunday License types and requirements.*

(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 one 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

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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.

- 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 9:00 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) *Amusement place Sunday license.*
- a. An amusement place 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(2)(b) to remain open and sell alcoholic beverages for consumption on the licensed premises between the hours of 9:00 a.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 or premises contains a square footage of at least 10,000 is a place where games of skill are usually played, and which has annual gross receipts of at least \$200,000.00.
 - c. Every applicant for a place of amusement Sunday license shall furnish the director, in addition to the application, a notarized

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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 place of amusement 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 place of amusement 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 place of amusement to sell intoxicating liquor, malt liquor or non-intoxicating beer for off-premises consumption.
- (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 9:00 a.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 9:00 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

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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.

- (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 9:00 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 9:00 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 9:00 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.
- (9) *Convention hotel or motel Sunday license.* A convention hotel or motel Sunday license authorizes the licensee holding a section 10-102 and 10-103 sales-by-drink license to remain open and sell alcoholic beverages for consumption on the premises between the hours of 9:00 a.m. on Sunday and 12:00 midnight on Sunday.
- (10) *Sales-by-drink Sunday license.* A sales-by-drink Sunday license authorizes the licensee holding a section 10-102 and 10-103 sales-by-drink license to remain open and sell alcoholic beverages between the hours of 9:00 a.m. and midnight on Sunday. The licensed premises annual gross receipts for the year immediately preceding the application for the sales-by-the-drink Sunday license shall not have been less than \$150,000.00 of which at least \$60,000.00 of such gross receipts is in nonalcoholic sales. An applicant of a new business may request and the director may waive the annual gross receipts requirement provided that the applicant submit documentation showing that the new business will have annual gross

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receipts of not less than \$150,000.00 of which at least \$60,000.00 of such gross receipts is in nonalcoholic sales.

- (11) *Wine Manufacturer's Sunday License.* A wine manufacturer's Sunday license authorizes the wine manufacturer holding a section 10-102 and 10-103 sales-by-drink license to remain open and sell alcoholic beverages between the hours of 9:00 a.m. and midnight on Sunday. There is no cost for a wine manufacturers Sunday license.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney