

ORDINANCE NO. 120012

Amending Chapters 10, 40 and 68, Code of Ordinances, by repealing Sections 10-1, Definitions, 10-187, Tax clearance, 40-14, Extension of time for payment of license tax and 68-567, Extension of time for payment, and enacting in lieu thereof new sections of like number and subject matter which allows the Commissioner of Revenue to enter into payment plans in exceptional mitigating circumstances and will allow the Director of Neighborhood and Community Services Department or their designee to issue a conditional liquor license for the renewal of a liquor license when an applicant is unable to receive a tax clearance letter but has been put on a tax payment plan as approved by the Commissioner of Revenue.

WHEREAS, in difficult economic times there are situations where exceptional mitigating circumstances exist as to why a taxpayer is unable to pay its taxes; and

WHEREAS, the current ordinances does not expressly authorize the Commissioner of Revenue to enter into extended and installment payment plans; and

WHEREAS, there are some liquor license holders that are unable to receive a tax clearance letter who are making payments toward their delinquency; and

WHEREAS the Director of Neighborhood and Community Services Department does not have the ability to renew a liquor license if a liquor license holder is unable to receive a tax clearance letter; and

WHEREAS the ordinance does not currently allow the Director of Neighborhood and Community Services Department to issue a liquor license or permit to a liquor license or permit holder whenever a tax payment plan is in place as approved by the Commissioner of Revenue; 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 10-1, Definitions, and 10-187, Tax clearance, 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.

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

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

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

*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 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.

*Conditional license or permit* means a license or permit issued under this chapter that has additional listed restrictions which must be followed by the licensee or permittee at all times whereby the failure of the licensee or permittee to comply with the restrictions may result in the suspension or revocation of the license or permit.

*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

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where food, beverages or entertainment are sold or provided for compensation as provided in RSMo 311.480.

*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.

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

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

*Convention hotel or motel* means any hotel or motel containing not less than 100 transient guestrooms, having a meeting room or similar facility with a seating capacity of not less than 50 persons and having a restaurant on the premises.

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

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

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

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

*Eligible consentor* means an owner of property in the city which is wholly within or intersected by a specified radius from a proposed premises 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 or any parcel of such real estate on which a retail sales-by-drink, C.O.L. or sales-by-package license is situated or any property owned by a person who has any ownership interest or other financial interest in the proposed premises, as determined by the director, the property owner shall

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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.

*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.

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*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.

*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 which is regularly used as a public or private elementary school, middle school or high 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

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considered to be part of the alcoholic beverage and shall not be considered to be prepared meals or food.

*Tavern* means any licensed premises that sells liquor by the drink which derives the majority of its annual gross sales from alcoholic beverages and does not qualify to be categorized as a restaurant-bar, amusement place or place of entertainment as defined in this chapter.

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

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

**Sec. 10-187. Tax clearance.**

(a) Before any retail, wholesale, C.O.L., manufacturer or microbrewery license or permit is issued or renewed under the provisions of this chapter, the applicant shall furnish to the director, a statement from the commissioner of revenue that the applicant has paid all earnings and profits, convention and tourism and occupational license taxes due the city, including all penalties and interest, or does not owe any earnings and profits, convention and tourism and occupational license taxes to the city.

(b) The director may issue a conditional license or permit for the renewal of a license or permit issued under this chapter to an applicant who is on a payment plan, as approved by the commissioner of revenue, for all earnings and profits, convention and tourism, and occupational license taxes due the city. If the licensee or permittee fails to make a scheduled payment at any time or defaults on the payment plan as approved by the commissioner of revenue, the director shall request a hearing before the board for the revocation of the license or permit.

Section 2. That Chapter 40, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 40-14, Extension of time for payment of license fee, and enacting in its place a new section of like number and subject matter, to read as follows:

**Sec. 40-14. Extension of time for payment of license tax.**

(a) The commissioner of revenue may, before any delinquency and for good cause shown, extend the time of payment of license tax for a period not to exceed 60 days.

(b) After delinquency, extensions of time to pay the license tax shall not be granted except for exceptional mitigating circumstances for the cause of the delinquency and demonstrated proof of financial ability to repay the delinquency. If the taxpayer

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meets such criteria, the commissioner, in his or her discretion, may permit the taxpayer to enter into a payment agreement, in a form prescribed by the commissioner, to pay the tax, along with penalties, in installments for a period not to exceed six months. Failure to make any installment payment due under the agreement shall cause the entire balance due to become payable immediately, and subject to recovery and collection as provided in this article.

Section 3. That Chapter 68, Code of Ordinances of the City of Kansas City, Missouri, Section 68-387, Returns by taxpayers, is hereby amended by adding a new subsection (d) to read as follows:

**Sec. 68-387. Returns by taxpayers.**

(d) After delinquency, extensions of time to pay shall not be granted except for exceptional mitigating circumstances for the cause of the delinquency and demonstrated proof of financial ability to repay the delinquency. If the taxpayer meets such criteria, the commissioner, in his or her discretion, may permit the taxpayer to enter into a payment agreement, in a form prescribed by the commissioner, to pay the tax, along with interest and penalties, in installments for a period not to exceed six months. Failure to make any installment payment due under the agreement shall cause the entire balance due to become payable immediately, and subject to recovery and collection as provided in this article.

Section 4. That Chapter 68, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 68-567, Extension of time for payment, and enacting in its place a new section of like number and subject matter, to read as follows:

**Sec. 68-567. Extension of time for payment.**

(a) The commissioner of revenue may, before any delinquency and for good cause shown, extend the time of payment of the tax imposed by this article for a period not to exceed 60 days.

(b) After delinquency, extensions of time to pay the convention and tourism tax shall not be granted except for exceptional mitigating circumstances for the cause of the delinquency and demonstrated proof of financial ability to repay the delinquency. If the remitter of the tax meets such criteria, the commissioner, in his or her discretion, may permit the tax remitter to enter into a payment agreement, in a form prescribed by the commissioner, to pay the tax, along with interest and penalties, in installments for a period not to exceed six months. Failure to make any installment payment due under the agreement shall cause the entire balance due to become payable immediately, and subject to recovery and collection as provided in this article.

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Approved as to form and legality:

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Kathy Adams  
Assistant City Attorney