

COMPARED VERSION
COMMITTEE SUBSTITUTE TO ORIGINAL ORDINANCE

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 160945

Amending Chapter 10, Code of Ordinances, by repealing ~~Section~~Sections 10-332, Restrictions and prohibited acts by all retail licensees, and 10-337, Package sales licenses, prohibitions and requirements, and enacting a new section of like number and subject matter that is in compliance with Missouri State Statute which allows retail sales-by-package license holders to sell growlers.

WHEREAS, for purposes of this section a growler is a jug that can be purchased by a person to be filled with a draft beer of their choice for purposes of off premise consumption; and

WHEREAS, since Missouri State Statutes allow for a retail sales-by-package license holder to sell growlers, Kansas City, Missouri Ordinances must do the same; and

WHEREAS, although Missouri State Statutes allow growlers to be sold in a size between thirty-two to one hundred twenty-eight fluid ounces of draft beer, city ordinance restricts the size to 32 ounces only; and

WHEREAS, since selling a growler means a retail sales-by-package licensed premise will now be pouring draft beer onsite which requires a person to be 21 years of age and is ultimately a change in the way the business was originally licensed, a licensee will be required to meet the consent requirement; 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 ~~Section~~Sections 10-332 and 10-337 and enacting a new section of like number and subject matter, to read as follows:

Sec. 10-332. Restrictions and prohibited acts by all retail licensees.

(a) *Sales to minors or intoxicated persons.* No retail licensee, nor employee of the licensee, shall allow any alcoholic beverages to be sold, given or otherwise supplied upon the licensed premises to any person who is under of 21 years of age, or to a habitual drunkard, or to any person who is intoxicated or who is actually or apparently under the influence of alcoholic beverage.

(b) *Consumption by minors.* No retail licensee, nor employee of the licensee, shall allow any person under 21 years of age to consume alcoholic beverages upon the licensed premises.

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(c) *Sale for off-premise consumption.* No retail licensee or employee of the licensee shall sell, for off-premise consumption, any glass bottle, other than a growler as outlined in Section 10-337, containing more than 3032 ounces of malt ~~liquor or nonintoxicating beer~~beverages that is chilled or refrigerated to a temperature that is at or below room temperature of the licensed premises.

(d) *Serving or delivering in vehicles.* No retail licensee, nor employee of the licensee, shall sell or serve any alcoholic beverage to any person while the person is operating or is a passenger in or on any motor vehicle.

(e) *Prostitution.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any act of prostitution as defined in the prostitution chapter of the Missouri Criminal Code, including the solicitation for prostitution.

(f) *Unauthorized sale of property.* No retail licensee, nor employee of the licensee, shall allow any person to offer for sale or sell any personal property upon the licensed premises unless the sale of the property has been authorized by the licensee or the manager or person in charge of the licensed premises.

(g) *Disorderliness, indecency or obscenity.* Upon the licensed premises, no retail licensee, nor employee of the licensee, shall:

- (1) Fail to immediately prevent or suppress any violent quarrel or disorder, brawl, fight or any other act or conduct prohibited or declared to be unlawful by this chapter.
- (2) Allow language, conduct or songs calculated to provoke a breach of the peace, or obscene literature, entertainment or advertising material.
- (3) Allow any employee, entertainer or customer to perform a dance of any kind upon a bar, table or any other place used for serving food or beverages.
- (4) Allow any person to be unclothed, or in less-than-opaque attire, costume or clothing, so as to expose to view the top of the areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered.
- (5) Allow the performance of any acts of sexual conduct, including actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of the female; or any sadomasochistic abuse or acts including animals or latent objects in an act of apparent sexual stimulation or gratification, as the terms are defined in

the pornography and related offenses chapter of the Missouri Criminal Code.

- (6) Allow the display of films or videotapes showing persons unclothed as described in subsection (g)(4) of this section, or allow the display of pictures, films, videotapes or other material depicting acts prohibited by subsection (g)(5) of this section.

(h) *Storing off-licensed premises.* No retail licensee shall store any alcoholic beverage off or outside of the licensed premises unless written request is filed with the director, and written approval is issued by the director; except that a licensee may store alcoholic beverages in a bonded warehouse or central warehouse, if he has first notified the director in writing of his intention to do so.

(i) *Unlicensed beverages on premises.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any alcoholic beverages except the types the licensee is licensed to sell upon those premises.

(j) *Illegal drugs.* No retail licensee, nor employee of the licensee, shall possess, store, sell or offer for sale, give away, distribute or deliver any controlled substance or illegal drug or narcotic, as defined in the Missouri Comprehensive Drug Control Act, or similar statutes, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

(k) *Illegal gambling.* No retail licensee, nor employee of the licensee, shall participate or engage in illegal gambling or violate any federal or state laws in connection with gambling, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

(l) *Illegally purchased alcoholic beverages.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any alcoholic beverage which he has purchased or secured in violation of any city ordinance, or local, state or federal law.

(m) *Entertainment on premises.* No retail licensee nor employee of the licensee shall allow on or about the licensed premises:

- (1) Any type of live entertainment unless the consent requirement, as outlined in chapter 10-214, has been met and the application has been approved by the director. The term live entertainment, as used in this chapter, shall include but shall not be limited to a dance hall, DJ, two or more live musicians, seminude dancing, stage show, floor show or contest. Any form of entertainment, live exhibition, performance or dance characterized by exposure of specified anatomical areas as that term is defined in section 80-20, or dance performed by a performer who is nude behind an opaque

barrier, shall be prohibited unless the licensed location first complies with the zoning requirements set forth under section 80-156.

- (2) Any type of entertainment unless the application has been approved by the director. The term "entertainment," as used in this chapter, shall include but shall not be limited to jukeboxes, pool tables, dart boards, video games, pinball machines or any other amusement device operated by the insertion of a coin, disc or other insertion piece.

(n) *Employees dancing on premises.* Upon the licensed premises:

- (1) The dancer may perform a dance for a customer or customers but shall not intentionally touch any customer while performing a dance.
- (2) The dancer shall not receive any payment or gratuity from any customer unless the payment or gratuity is placed into the dancers hand or under a leg garter worn by the dancer located at least four inches below the bottom of the pubic region.
- (3) No dancer shall dance with any customer.
- (4) No dancer shall sit at a table or the bar with any customers.
- (5) No customer shall knowingly or intentionally touch any dancer.

(o) *Multiple business names posted on one licensed premises.* Multiple business names may not be posted on the exterior of a licensed premises unless:

- (1) There is a separate entrance into the licensed premises for each different business name that will be posted, and;
- (2) The original business name is included as part of any new business name and the size of the lettering of the business name is uniform on any interior or exterior sign that will be posted throughout the licensed premises, and;
- (3) There must be open public access throughout the entire licensed premises where there are no closed doors or other physical barriers that separate the licensed premises in any way. However, it is permissible to keep any part of the licensed premises closed when it is not in use.

(p) *Nuisances.* No retail licensee or employee of the licensee shall cause a nuisance to or change in character of any residential area or the immediate area surrounding the licensed premises. Nuisances may include but will not be limited to noise, traffic and parking associated with the operation of the premises from patrons or other persons frequenting the premises.

(q) *Lewd and indecent conduct.* No retail licensee, nor employee of the licensee, shall allow lewd and indecent conduct on or within the immediate vicinity of the licensed premises. Lewd and indecent conduct may include but will not be limited to public urination exhibited by persons frequenting the licensed premises or by the licensee or his employees, servants or agents.

Sec. 10-337. Package sales licenses; prohibitions and requirements.

(a) No package sales licensee, nor employee of the licensee, shall permit any person to consume alcoholic beverages upon the licensed premises. A package sales licensee that has a tasting license under the provisions of section 10-114 may allow wine malt beverage and distilled spirit tasting on the licensed premises.

(b) No package sales licensee, nor employee of the licensee, shall sell, dispense or give away any alcoholic beverages upon the licensed premises except in the original package unless:

(1) Pursuant to RSMo 311.201, any person who is licensed to sell intoxicating liquor in the original package at retail may sell between thirty-two and sixty-four fluid ounces of draft beer to customers in a container filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one years of age to fill containers with draft beer.

~~(2) Before any person who is licensed to sell intoxicating liquor in the original package at retail sells draft beer to customers as outlined in this section, they must first meet the consent requirement as outlined in section 10-214 of this chapter.~~

~~(3)~~(2) Containers that are filled or refilled of draft beer as outlined in this section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three millimeters in height and not more than twelve characters per inch:

- (a) Brand name of the product dispensed;
- (b) Name of brewer or bottler;
- (c) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;
- (d) Net contents;
- (e) Name and address of the business that filled or refilled the container;

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- (f) Date of fill or refill;
- (g) The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

~~(4)~~(3) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee. Containers shall only be filled or refilled by an employee of the retailer.

~~(5)~~(4) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.

~~(6)~~(5) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.

~~(7)~~(6) After filling or refilling a container, the container shall be sealed.

(c) No malt liquor package sales licensee, nor employee of the licensee, shall possess or permit alcoholic beverages, other than those allowed for sale by the license, upon the licensed premises.

(d) A package sales licensee whose place of business remains open on days or during the hours when the sale of alcoholic beverages is prohibited by section 10-333 shall, during the times as sale is prohibited, segregate alcoholic beverages in a storage space inaccessible to the public, or cover or enclose alcoholic beverages by means of a slip cover constructed from substantial material and secured in a manner whereby the public shall not have access.

(e) No package sales licensee, nor employee of the licensee, shall sell or give away any drug, or controlled substance to any person, provided that nothing in this section shall prohibit the licensee, any of its employees or any other person from possessing or using a drug, medicine or controlled substance in a lawful manner, provided that this shall not apply to a licensee lawfully doing business as a pharmacy duly licensed under state or federal law or a licensee with an average of 80 percent or more of its total gross receipts from nonalcohol and nondrug sales.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney