

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130045

Amending Chapter 40, Code of Ordinances, entitled "Licenses and Miscellaneous Business Regulations," to revise the provisions on suspension or revocation of the business license.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. Chapter 40, Article I, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 40-26, entitled "Duty of police to enforce license laws," and Section 40-27, entitled "Suspension or revocation of license for keeping a disorderly premises."

Section 2. Chapter 40, Article I, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 40-28, entitled "Suspension or revocation of license generally," and enacting in its place a new Section 40-28, to read as follows:

**Sec. 40-28. Suspension or revocation of license generally; enforcement of license ordinances.**

(a) The commissioner of revenue, the director of finance, or such other employee of the Department of Finance as designated by the director, may, after notice and hearing, deny, suspend for a period not to exceed ninety days, revoke or refuse to renew any license issued under the provisions of this chapter for any of the following reasons:

- (1) The licensee has failed to pay the required license tax or fee;
- (2) The licensee has made a misrepresentation or false statement in the license application;
- (3) The licensee has failed or refused to make available for audit or examination the books and records requested by the commissioner pursuant to Section 40-23 of this chapter;
- (4) The license is being used for a purpose different from that for which it was issued;
- (5) The licensee has been convicted of keeping a disorderly premises on the licensed premises in violation of Section 50-165 of the Code of Ordinances;
- (6) The licensee has been convicted of owning or operating a nuisance business on the licensed premises in violation of Section 50-174 of the Code of Ordinances;

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- (7) The licensee or any of his servants, agents or employees has been convicted of indecent exposure on the licensed premises in violation of Section 50-71 of the Code of Ordinances;
- (8) The licensee or any of his servants, agents or employees has been convicted of prostitution or promoting prostitution on the licensed premises in violation of state law or of Section 50-72 of the Code of Ordinances;
- (9) The licensee or any of his servants, agents or employees has been convicted of possessing or having under his control marijuana on the licensed premises in violation of Section 50-10 of the Code of Ordinances;
- (10) The licensee or any of his servants, agents or employees has been convicted of selling, distributing or displaying drug paraphernalia on the licensed premises in violation of Section 50-201 of the Code of Ordinances;
- (11) The licensee or any of his servants, agents or employees has been convicted of possessing an imitation controlled substance on the licensed premises in violation of Missouri law;
- (12) The licensee or any of his servants, agents or employees has been convicted of selling, distributing, delivering, producing or possessing a controlled substance or controlled substance analogue on the licensed premises in violation of Missouri law;
- (13) The licensee has conducted the business on the licensed premises in an unlawful manner or in such manner as to constitute a breach of the peace or a threat to public health, safety or welfare;
- (14) The licensee has violated any of the terms or provisions of this chapter.

(b) Nothing contained in this section or in this chapter shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

(c) It shall be the duty of the city prosecutor to report to the commissioner of revenue whenever any person who is the holder of a business license required under this chapter has been convicted of keeping a disorderly premises in violation of Section 50-165 of the Code of Ordinances, owning or operating a nuisance business in violation of Section 50-174 of the Code of Ordinances, or convicted of any of the other ordinance violations described in subsection (a) of this section.

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(d) Notice of hearing for the denial, suspension, revocation or refusal to renew the license shall be given in writing setting forth the specific reason or reasons therefor and the time and place of the hearing. Such notice shall be mailed by certified mail to the licensee at the licensee's last known address at least ten days prior to the date set for the hearing. In the alternative, such notice of hearing may be delivered to the licensee by personal service via an employee of the Revenue Division or private process server.

(e) Upon revocation or suspension, no refund of any portion of the license fee or tax shall be made to the licensee, and the licensee shall immediately cease all business operations at each place found to be in violation of the provisions of this chapter or any other law or ordinance.

(f) Any person who continues to engage in any business, profession or occupation during the term of such suspension or after revocation of the business license shall be guilty of an ordinance violation, and upon conviction thereof in municipal court shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense.

(g) Any person aggrieved by the decision of the commissioner in regard to the denial of an application or renewal of a license or the suspension or revocation of a license as provided in this chapter shall have the right to judicial review pursuant to the provisions of Chapter 536 of the Missouri Revised Statutes.

(h) It shall be the duty of the Police Department to prevent any person commencing, carrying on or conducting any business, trade, calling, amusement or entertainment or other thing for which a license is required by ordinance without first procuring from the city a license therefor, or to continue to conduct such business while the license is suspended or after the license has been revoked. The Department of Neighborhoods and Housing Services shall assist the police, as necessary, in securing or locking the premises to prevent a business from operating without having first procured a license or after the license has been suspended or revoked. It shall be the duty of the police to report to the proper authorities of the city all violations thereof, to make arrests and to cooperate with the commissioner of revenue and other officials of the city in a strict enforcement of the provisions of all license laws and ordinances. The police shall have the right at all reasonable times during hours of operation or when the establishment is open for business to conduct a business inspection for the purpose of determining the truthfulness and accuracy of any statements made by the person commencing, carrying on, or conducting any business for which a license is required. It shall be unlawful for any person operating a business where a license is required to hinder or refuse the police entry into the business during hours of operation or when the establishment is open for business.

(i) The manager of regulated industries shall assist the commissioner of revenue, the director of finance, or such other employee of the Department of Finance as designated by the director, with the enforcement of subsections (a) (5) through (a) (13) of

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this section. In assisting with enforcement, the manager of regulated industries shall be authorized to do any of the following:

- (1) To testify and present evidence in hearings before the commissioner of revenue, the director of finance, or such other employee of the Department of Finance as designated by the director, concerning the suspension or revocation of a license issued under this chapter;
- (2) To conduct informal dispositions of contested cases by stipulation, consent order or default, or by agreed settlement.

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Approved as to form and legality:

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Stephen Walsh  
Assistant City Attorney