

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 060312

Amending Chapter 10, Code of Ordinances, by repealing Section 10-212, Distances from churches or schools, and enacting in lieu thereof one new section of like number and subject matter, concerning an exemption of a restaurant/bar located at 2512 Holmes near an existing professional school.

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 10-212, Distances from churches or schools, and enacting in lieu thereof one new section of like number and subject matter, to read as follows:

Sec. 10-212. Distance from churches or schools.

(a) No alcoholic beverage license shall be issued for any location when the premises are within 300 feet of a school or church, measured from the nearest point of the enclosing wall of the premises to the nearest point of the school or church property. However, if a dwelling is the site of a proposed catered function, occasion or event, the requirements for the distance from any school or church is reduced to within 100 feet from the church or school. This provision shall not prohibit a church or school, meeting the requirements of this chapter, from holding a catered function, occasion or event on the property of the school or church.

(b) No alcoholic beverage license shall be issued for the expansion of any existing premises within 300 feet of a school or church, measured from the nearest point of the enclosing wall of the premises to the nearest point of the school or church property.

(c) The property for a licensed premises situated thereon, legally established within 300 feet of a church or school prior to the adoption of this chapter, shall remain eligible for the location of a licensed premises within 300 feet of the church or school under the following conditions:

- (1) The licensed premises must have been legally established within 300 feet of a church or school prior to the adoption of this chapter, and
- (2) An application for a new license for the premises must be filed within 120 days from the latter date that:
 - a. The licensee surrenders the license, or
 - b. The date that the license is canceled, terminated or revoked by the city, or

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 060312

- c. The date that the licensee cancels, terminates or abandons the lease, and
- (3) A relocation of the original premises to another location on the property shall not be permitted; and
- (4) Changes from an existing retail sale-by-drink license to any other license classification, or from an existing sale-by-package license to any other license classification, or from any other classification of license issued under this chapter to another license classification shall not be permitted, and
- (5) All other requirements for licensing a premises under this chapter are met.

(d) The provisions of section 10-212(a) shall not apply for the location of a proposed premises for a restaurant-bar sale-by-drink establishment if the proposed premises is located in an area of the city zoned C3a2 as of the effective date of the ordinance enacting this subsection.

(e) The provisions of section 10-212(a) shall not apply for the location of a proposed premises for a restaurant-bar sale-by-drink establishment if the proposed premises is located wholly within the following described location: that area bounded by and including the block face frontage on 17th Street Terrace on the north, Woodland Avenue on the east, 19th Street on the south and Paseo Boulevard on the west.

(f) The provisions of section 10-212(a) shall not apply for the location of a proposed premises for a retail sale-by-drink establishment if the proposed premises is located on city owned property within the following described location: that area bounded by 17th Street Terrace on the north, Highland Avenue on the east, 18th Street on the south and Vine Street on the west.

(g) The provisions of section 10-212(a) relating to the distance from churches but not schools shall not apply for the location of a proposed premises in a planned district defined in sections 80-272 through 80-281 of the Code of Ordinances, which includes a church as part of a development plan approved by the city council.

(h) The provisions of section 10-212(a) relating to the distance from churches but not schools shall not apply for the location of a proposed premises in a general planned development district defined in chapter 80 of the Code of Ordinances:

- (1) Which is zoned either GP2 or GP3 and is also zoned either GP-4 or GP-5 and which has been merged into a single zone on the basis of an appropriate integrated design plan; and
- (2) Which includes a church as part of a development plan approved by the city council.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 060312

(i) The provisions of subsection 10-212(a) shall not apply for the location of a proposed premises for a sales by package premises if the proposed premises is located wholly within the following described legal description: 3900 Prospect/South 50 feet of west 112 feet of east 122 feet Lot 1 north 15.64 feet of west 112 feet of east 122 feet Lot 2, Block 1, Geo West Warders Addition, a subdivision in Kansas City, Jackson County, Missouri.

(j) The provisions of subsections 10-212(a) and (b) shall not apply for the location of a proposed premises for a restaurant-bar sale by drink establishment if the proposed premises is located wholly within the following described legal description: All of Tract A, North Oak Business Park, a subdivision in Kansas City, Clay County, Missouri, and all of Lot 1, North Oak Business Park, 3rd Plat, a subdivision in Kansas City, Clay County, Missouri.

(k) The provisions of subsections 10-212(a) and (b) shall not apply to restaurant-bar sale-by-drink establishments that occupy or propose to occupy any premises located wholly within the following described location: that portion of the area bounded by 62nd Terrace on the north, Main Avenue on the east, Meyer Boulevard on the south and Wornall Road on the west, within which the issuance of any alcoholic beverage license would be prohibited pursuant to the application of subsections 10-212(a), (b) or (c) but for this subsection (k) (the restricted area); provided that the premises that such restaurant-bar sale-by-drink establishment occupies or proposes to occupy was not in whole or in part the subject of a retail sale-by-drink license that was in effect on August 15, 2005, and further provided, that with respect to any restaurant-bar sale-by-drink establishments within the restricted area that are licensed under the authority of this subsection (k), each of the following conditions must be satisfied notwithstanding any other provisions of this chapter to the contrary:

- (1) Such establishment shall have a restaurant or similar facility on the premises and derive 50 percent or more of its annual gross sales from the sale of prepared meals and food made and consumed on the premises, determined under the reporting procedures set forth in section 10-211(1)(b) as then in effect;
- (2) The licensee of such premises shall comply with the provisions of section 10-211(1)(b) as then in effect;
- (3) No such establishment shall at any time be issued a 3:00 a.m. closing permit;
- (4) No such establishment shall employ loudspeakers or any other amplifying device on the exterior of its premises;
- (5) No such establishment shall constitute, or allow upon such premises the operation of, a dance hall, pool hall, arcade, nightclub or tavern; and

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 060312

- (6) There may not be in effect at any one time more than three retail sale-by-drink licenses issued solely under the authority of the exception contained in this subsection (k) for restaurant-bar sale-by-drink establishments within the restricted area, of which no more than one such retail sale-by-drink license may be for premises located south of 63rd Street.

For the purposes of 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. Any person or licensee violating the provisions of this subsection (k) shall be subject to the penalties set forth in section 10-40 of this chapter.

(l) The provisions of subsections 10-212(a) and (b) shall not apply to restaurant-bar sale-by-drink establishments that occupy or propose to occupy any premises located at 2512 Holmes at which the issuance of any alcoholic beverage license would be prohibited pursuant to the application of subsections 10-212(a), (b) or (c) but for this subsection (l) (the restricted area); provided, that with respect to any restaurant-bar sale-by-drink establishments within the restricted area that are licensed under the authority of this subsection (l), each of the following conditions must be satisfied notwithstanding any other provisions of this chapter to the contrary:

- (1) Such establishment shall have a restaurant or similar facility on the premises and derive 50 percent or more of its annual gross sales from the sale of prepared meals and food made and consumed on the premises, determined under the reporting procedures set forth in section 10-211(1)(b) as then in effect;
- (2) The licensee of such premises shall comply with the provisions of section 10-211(1)(b) as then in effect;
- (3) No such establishment shall at any time be issued a 3:00 a.m. closing permit;
- (4) No such establishment shall employ loudspeakers or any other amplifying device on the exterior of its premises;
- (5) No such establishment shall constitute, or allow upon such premises the operation of a dance hall, pool hall, arcade, nightclub or tavern.

For the purposes of 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. Any person or licensee violating the

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 060312

provisions of this subsection (1) shall be subject to the penalties set forth in section 10-40 of this chapter.

Approved as to form and legality:

Kathy K. Adams
Assistant City Attorney