

ORDINANCE NO. 130460

Amending Chapter 10, Code of Ordinances, by repealing Section 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof a new section of like number and subject matter which will allow the applicant of a microbrewery or manufacturer who wishes to sell alcoholic beverages to the public directly from their business to bypass the density requirement when applying for a retail sales-by-drink alcoholic beverage license.

WHEREAS, a microbrewery and manufacturer are neither a package store nor a tavern as they operate and conduct their business in a completely different manner; and

WHEREAS, a microbrewery and manufacturer typically invite customers and guests to visit and/or tour their facility to see how their products are manufactured and to sample their products; and

WHEREAS, a microbrewery and manufacturer typically apply for a retail sales-by-drink license so visitors that sample alcoholic beverages onsite can purchase those alcoholic beverages that are manufactured at the facility; 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 10-211, Number of retail alcoholic beverage licenses, and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 10-211. Number of retail alcoholic beverage licenses.

The number of alcoholic beverage licenses issued by the director shall be limited on the following basis:

- (1) Retail sales-by-drink licenses. For those certain real properties that abut the right of way of Chouteau Traffic way from the intersection with the north right of way line of Northeast Parvin Road on the south to the intersection with the south right of way line of Russell Road on the north, two retail sale-by-drink licenses may be issued for population of zero to 1,500, and one additional sale-by-drink license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premise, as measured from the center of the door to be used as the main entrance to the premise. For all other census blocks located in the city, one retail sales-by-drink license may be issued for population of zero to 1,500, and one additional retail sales-by-drink license may be issued for each

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additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premise, as measured from the center of the door to be used as the main entrance to the premise. For a premise that is currently in operation, the center of the door for the main entrance to the premise shall be determined by the entrance naturally used by the public frequenting the premise. The applicant shall furnish to the director 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 premise. The limitations provided in this section shall not apply to:

- a. Retail sales-by-drink licenses issued to hotels, apartment hotels, motels, inns, lodges or similar places providing principally transient residential accommodations and having at least 40 rooms for overnight accommodation.
- b. Retail sales-by-drink licenses issued to restaurant premises where substantial quantities of food are served, as defined in this chapter. The licensee of restaurant premise granted a license under this subsection shall file with the director, on a form provided by him, a verified statement showing the total amount of gross receipts, the total amount of gross receipts from the sale of alcoholic beverages, and the total amount of gross receipts from the sale of prepared meals and food made and consumed on the premise for the 90-day period immediately following the date of the issuance of the license, and thereafter for the 12-month period immediately preceding November 1 of each year. The statements shall be filed within 15 days after the expiration of the 90-day period and with each annual renewal application. Upon proper and sufficient evidence submitted to the director, the director shall summarily cancel or refuse to renew the license upon the failure of the licensed premise for a period of one year after issuance or renewal of the license to maintain an average of 50 percent or more of its total gross receipts in sales of prepared meals and food made and consumed on the premise. Cancellation as provided in this subsection by the director of any license issued under this subsection shall not be deemed a revocation and shall not disqualify the licensee from applying for and receiving any license granted under the provisions of this chapter. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

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- c. Retail sales-by-drink licenses issued to theatres registered as nonprofit organizations where live performances are given on a regular basis.
- d. Retail sales-by-drink licenses issued to a manufacturer or microbrewery, as defined in this chapter, to sell only those alcoholic beverages by the drink that are manufactured on the licensed premise.
- e. Sales-by-drink premises located wholly within the following described locations:
 - (i) That area bounded by, including and beginning from the intersecting point of the block face frontage of the west side of Broadway Boulevard and including the block face frontage of I-70 on the north, thence east along the block face frontage of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes Avenue, thence south along the block face frontage of the east side of Holmes Avenue to the intersecting point of and including the block face frontage of the south side of 24th Street, thence west along the block face frontage of the south side of 24th Street to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard, thence north along the block face frontage of the west side of Broadway Boulevard to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard and the block face frontage of I-70 on the north and that area bounded by and including the block face frontage of the north side of 17th Street Terrace, the east side of Woodland Avenue, the south side of 19th Street and the west side of Paseo Boulevard and that area bounded by and beginning at the intersection of the west city limit and the south bank of the Missouri River, thence south along the west boundary of the city limit to the intersection with the north right of way line of 25th Street, thence east along the north right of way line of 25th Street to the intersection with the west right of way line of Allen Road, thence generally north along the west right of way line of Allen Road to the intersection

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with the west right of way line of Holly Avenue, thence north along the west right of way line of Holly Avenue to the intersection with the west right of way line of Beardsley Road, thence north along the west right of way line of Beardsley Road to the intersection with the north right of way line of 6th Street, thence east along the north right of way line of 6th Street to the intersection with the west right of way of Broadway Avenue, thence north along the west right of way line of Broadway Avenue to the intersection with the south bank of the Missouri River, thence west along the south bank of the Missouri River to the point of beginning.

- (ii) The east and west sides of N.W. Prairie View Road, north of N.W. Barry Road extending north to Missouri Highway 152, on the north and south sides of N.W. Prairie View Road, west of the intersection of Interstate 29 and Highway 152 extending west to N. Congress Avenue, and at the southwest corner of Highway 152 and N. Congress Avenue.
 - (iii) The area bounded by Guinotte Avenue on the south, North Montgall Avenue on the west, Rochester Avenue on the north and North Chestnut Traffic way on the east.
 - (iv) That area bounded by Tiffany Springs Road on the north, Interstate 29 on the west, Missouri Highway 152 on the south and N. Ambassador Drive on the east.
- (2) Retail sales-by-package licenses. Two retail sale-by-package licenses may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city which abut the city limits of Kansas City, Missouri, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premise, as measured from the center of the door to be used as the main entrance to the premise. For all other census blocks located in the city that do not abut the city limit lines as described above, one retail sale-by-package license may be issued for population of zero to 1,500, and one additional sale-by-package license may be issued for each additional 1,500 population which exceeds the first 1,500 population, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premise, as measured from the center of the door to be used as the main entrance to the premise. For a

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premise that is currently in operation, the center of the door for the main entrance to the premise shall be determined by the entrance naturally used by the public frequenting the premise. The applicant shall furnish to the director 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 premise. The limitations provided in this section shall not apply to a liquor license applicant who meets any of the following criteria:

- a. If an applicant proposes to operate a retail sales-by-package premise and the size of the building is not less than 5,000 square feet and an average of 70 percent or more of its total gross receipts, other than receipts from the sale of motor vehicle fuel, are from sales of inventory excluding alcoholic beverages. The licensee of a retail sales-by-package premise granted a license under this subsection shall file with the director, on a form provided by him, a verified statement showing the total amount of gross receipts, other than receipts from the sale of motor vehicle fuel, the total amount of gross receipts from the sale of alcoholic beverages, and the total amount of gross receipts from the sale of inventory exclusive of alcoholic beverages made on the premise for the 90-day period immediately following the date of the original issuance of the license, and thereafter for the 12-month license period. The statements shall be filed within 15 days after the expiration of the 90-day period and with each annual renewal application for a retail sales-by-package license. Upon proper and sufficient evidence submitted to the director, the director shall summarily cancel or refuse to renew the license upon the failure of the licensed premise for a period of 1 year after original issuance or renewal of the license to maintain a building of not less than 5,000 square feet; or upon the failure to maintain an average of 70 percent or more of its total gross receipts, other than receipts from the sale of motor vehicle fuel, from sales of inventory excluding alcoholic beverages. Cancellation as provided in this subsection by the director of any license issued under this subsection shall not be deemed a revocation and shall not disqualify the licensee from applying for and receiving any license granted under the provisions of this chapter. The cancellation shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.
- b. If an applicant proposes to operate a retail sales-by-package premise and the 3000 foot radius, as measured from the center of the door for the main entrance of the premise as determined by the entire boundaries of any United States census blocks located in the city and which census blocks are located wholly within or intersected by the radius, has a population of 750 or less.

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- c. If an applicant proposes to operate a retail sales-by-package premise located wholly within the following described locations:
- (i) That area bounded by, including and beginning from the intersecting point of the block face frontage of the west side of the Broadway Bridge and the south bank of the Missouri River, thence east along the south bank of the Missouri River to the intersecting point of and including the west side of the Heart of America Bridge, thence south along the block face frontage of the west side of the Heart America Bridge to the intersecting point of and including the block face frontage of the north side of I-70 on the north, thence east along the block face frontage of the north side of I-70 on the north to the intersecting point of and including the block face frontage of the east side of Cherry Avenue, thence south along the block face frontage of the east side of Cherry Avenue to the intersecting point of and including the block face frontage of the south side of 8th Street, thence east along the block face frontage of the south side of 8th Street to the intersecting point of and including the block face frontage of the east side of Holmes Avenue, thence south along the block face frontage of the east side of Holmes Avenue to the intersecting point of and including the block face frontage of the south side of 24th Street, thence west along the block face frontage of the south side of 24th Street to the intersecting point of and including the block face frontage of the west side of Broadway Boulevard, thence north along the block face frontage of the west side of Broadway Boulevard to the intersecting point of the west side of the Broadway Bridge and the south bank of the Missouri River.
 - (ii) That area bounded by Forester Road on the north, Mulberry Street on the east, St. Louis Avenue on the south and Hickory Street on the west.
 - (iii) The east and west sides of N.W. Prairie View Road, north of N.W. Barry Road extending north to Missouri Highway 152, on the north and south sides of N.W. Prairie View Road, west of the intersection of Interstate 29 and Highway 152 extending west to N. Congress Avenue, and at the southwest corner of Highway 152 and N. Congress Avenue.

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- (iv) That area bounded by Tiffany Springs Road on the north, Interstate 29 on the west, Missouri Highway 152 on the south and N. Ambassador Drive on the east.
 - (v) That area bounded by 79th Street on the north, State Line Road on the west, 81st Street on the south and Ward Parkway on the east.
 - (vi) That area bounded by West 85th Terrace on the north, State Line Road on the west, West 89th Street on the south and Ward Parkway on the east.
 - (vii) That area bounded by, including and beginning from the intersecting point of the block face frontage of the east side of Blue Ridge Boulevard and East Bannister Road, thence west along East Bannister Road to the intersecting point of Hillcrest Road, thence west along and including the block face frontage of the south side of east Bannister Road to the intersecting point of Hickman Mills Drive, thence northwest along Hickman Mills Drive to the intersecting point of Blue River Road, thence northeast along Blue River Road to the intersecting point of East 87th Street, thence east along and including the block face frontage of the north side of East 87th Street to the intersecting point of the Kansas City Southern Railroad tracks, thence south along the Kansas City Southern Railroad tracks to the intersecting point of East 93rd Street, thence east along East 93rd Street to the intersecting point of and including the block face frontage of the east side of Old Santa Fe Road, thence south along the block face frontage of the east side of Old Santa Fe Road to the intersecting point of and including the block face frontage of the east side of Blue Ridge Boulevard, thence south along the block face frontage of the east side of Blue Ridge Boulevard to the intersecting point of East Bannister Road.
- d. If an applicant proposes to operate a retail sales-by-package premise for the sale of malt liquor or nonintoxicating beer in the original package if the premise is located so that no residentially zoned property is within a radius of 600 feet from the premise as measured from the center of the door for the main entrance to the premise, and 80 percent or more of the gross sales on the premise are nonalcoholic beverage sales, and the applicant furnishes to the director, signed consents from the owners of a majority of property parcels under the provisions of section 10-214 of this chapter, provided that the applicable radius to determine eligible consenters

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for this exemption from the requirements of this section shall be 500 feet.

- e. If an applicant proposes to operate a retail sales-by-package premise and the size of the building is less than 5,000 square feet or the business does not generate 70 percent or more of its total gross receipts, other than receipts from the sale of motor vehicle fuel, from sales of inventory excluding alcoholic beverages, then all retail sales-by-package premises with a building size greater than 20,000 square feet and an average of 80 percent or more of total gross sales from inventory excluding alcoholic beverages will not be included in the total number of retail sales-by-package licenses located wholly within or intersected by a 3,000 foot radius from the applicant's current or proposed licensed premise.
- (3) The determination of population contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premise, shall be made by adding the total population as determined by the most recent U.S. Decennial Census or, at the applicants choice, by requesting from the City Planning and Development Department of Kansas City, Missouri, the Kansas City Population Update Report prepared and signed by the city's planning and development department to determine population that is contained within the entire boundaries of each such United States census block. The determination of the number of licenses of a specific category located within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius as measured from the center of the door of the main entrance of a proposed sales-by-drink or sales-by-package premise, shall be made by adding the total number of such licenses located within the entire boundaries of each such United States census block, but excluding those licenses exempted under (1)a., (1)b., and (1)c., located within the entire boundaries of each such United States census block. In connection with any application for a new license regulated under this section, for the purposes of determining the number of licenses in the categories regulated under this section, contained within the entire boundaries of any United States census blocks located in the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premise, as measured from the center of the door for the main entrance to the premise, all such city licenses existing at the time of the determination by the director, whether serving a suspension, under an order of nonrenewal, under an order of suspension or revocation, or under investigation for, subject to or charged with disqualification from holding a license or a violation of the provisions of this chapter, shall be included

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in the calculation unless the nonrenewal or revocation is final with all rights of appeal foreclosed.

- (4) If the total number of sales-by-drink or sales-by-package licenses herein issued at the time this chapter becomes effective exceeds the number authorized for that category of license, those licenses, if they meet all other requirements, shall be entitled to renewal on an annual basis. If a license is not renewed or ceases to fulfill all other requirements of this chapter and is thereafter terminated or canceled or expires, then an application for a new license for the previously licensed premise shall be required to fulfill all conditions of this chapter for an original license, including but not limited to the provisions of section 10-211 limiting the number of licenses. Additional licenses in a category shall not be issued until the time as the respective population ratios as calculated and determined under this section exceed the populations provided herein. A new license in a category, if the application meets all other requirements of this chapter, may be issued for a vacancy created by bona fide purchase or transfer of a license to a new premise located in a census block wholly within or intersected by a 3,000-foot radius from the existing licensed premise, as measured from the center of the door for the main entrance to the premise, so long as an application for a new license is filed within 12 months from the date of bona fide purchase or transfer. A licensee whose license has been surrendered, canceled or not renewed as a result of the transfer of the real property where the premise is located to an entity that has the power of eminent domain, and who files an application for a new license within 12 months from the date of the transfer of the real property shall be exempt from the requirements of this section with respect to a new location, but the licensee shall meet all other requirements of this chapter. For the purposes of this chapter, the center of the door for the main entrance to the premise shall be determined by the entrance naturally used by the public frequenting the establishment who shall furnish to the city 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 premise.

Approved as to form and legality:

Kathy Adams
Assistant City Attorney