

ORDINANCE NO. ENTER NUMBER HERE

..title

Sponsor:

Amending Chapter 10, Code of Ordinances, Alcoholic Beverages, by repealing and replacing Sections 10-211, 10-214, and 10-261 for the purpose of amending the factors which may be considered when determining whether to waive the presumption that a proposed retail alcoholic beverage license is likely to interfere with or be detrimental to the rights or interests of the neighboring community.

..body

WHEREAS,; and

WHEREAS,; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 10, Code of Ordinances of Kansas City, Missouri, is hereby amended by repealing Section 10-211, Number of retail alcohol beverage licenses, Section 10-214, Eligible neighbor notification, and Section 10-261, Renewals, and replacing with sections of like number and subject matter, to read as follows:

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

- (1) *Retail sales-by-drink licenses.* 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 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 premises, as measured from the center of the door to be used as the main entrance to the premises. For a premises that is currently in operation, the center of

the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the premises. 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 premises. The limitations provided in this section shall not apply to:

- a. An applicant that proposes to operate a retail sales-by-drink premises and the 3,000-foot radius, as measured from the center of the door for the main entrance of the premises 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.
- b. 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.
- c. Retail sales-by-drink licenses issued to bar-restaurants, as defined in this chapter, ~~that do not provide any form of live entertainment. Upon proper and sufficient evidence submitted to the director, the director shall summarily refuse to renew the license upon the failure of the licensed premise to maintain the business as a bar-restaurant at the time of renewal. The decision of the director to disapprove the renewal of any license issued under the provisions of 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 decision of the director to disapprove the renewal of any license issued under the provisions of this subsection shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.~~
- 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 premises.
- e. A licensed premises that will only be used as a storage space where alcoholic beverages are stored, not sold or served, and the general public is not permitted to enter at any time.
- f. Sales-by-drink premises located wholly within the following described locations:
 1. Central City Area. 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.

2. 18th and Vine District Area. That area bounded by and beginning from the intersecting point of Lydia Avenue and East Truman Road, thence east along East Truman Road to the intersecting point of Brooklyn Avenue, thence south along Brooklyn Avenue to the intersecting point of East 19th Street, thence west along East 19th Street to the intersecting point of Groves Street, thence north along Groves Street to the intersecting point of East 17th Street, thence west along East 17th Street to the intersecting point of Lydia Avenue, thence north along Lydia Avenue to the intersecting point of East Truman Road. After April 1, 2018, if an applicant proposes to operate a retail sales-by-drink business to be located outside the boundaries of this area, any additional business located within this new area which adds to the density after April 1, 2018 will not be included when considering the limitations of businesses as outlined in subsection (1) of this section.
3. West Bottoms Area. 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 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.
4. Zona Rosa Shopping District Area. 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.

5. City Market District Area. That area bounded by, including and beginning from the intersecting point of the Buck O'Neil Bridge and the south bank of the Missouri River, thence east along the south bank of the Missouri River to the intersecting point of the Heart of America Bridge, thence south along the Heart of America Bridge to the intersecting point of I-70, thence west along I-70 to the intersecting point of the Buck O'Neil bridge, thence north along the Buck O'Neil Bridge to the intersecting point of the south bank of the Missouri River.
6. Tiffany Springs Market Area. 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.
7. 25th and Southwest Blvd. Area. That area bounded by Southwest Boulevard on the west, West 25th Street on the north, Summit Street on the east and West 26th Street on the south.
8. Village at Briarcliff Area. That area bounded by North Mulberry Drive on the west, the northern boundary of the Briarcliff Village Tract C-1 parcel on the north, the eastern boundary of the Briarcliff Village Tract C-1 parcel on the east and the southern boundary of the Briarcliff Village Tract C-1 parcel on the south.
9. East Bottoms Area. That area bounded by and beginning from the intersecting point of North Garland Avenue and Nicholson Avenue, thence east along Nicholson Avenue to the intersecting point of North Agnes Avenue, thence south along North Agnes Avenue and continuing in a straight line to the intersecting point of the northern border of Kessler Park, thence west along the northern border of Kessler Park to the point where North Garland Avenue would intersect the northern border of Kessler Park, thence north along North Garland Avenue to the intersecting point of Nicholson Avenue. After April 1, 2018, if an applicant proposes to operate a retail sales-by-drink business to be located outside the boundaries of this area, any additional business located within this new area which adds to the density after April 1, 2018 will not be included when considering the limitations of businesses as outlined in subsection (1) of this section.
10. Mill Creek Plaza Area. That area bounded by and beginning from the intersecting point of 103rd Street and the west bank of Indian Creek, thence southwest along the west bank of Indian Creek to the intersecting

point of the west bank of Indian Creek and the state line, thence north along the state line to the south line of Lea Manor Subdivision, thence east along the south line of the Lea Manor Subdivision, to the west line of Lot 3, Watts Mill Plaza Subdivision, thence south along the west line of Lot 3, Watts Mill Plaza Subdivision, to the south line of Lot 3, Watts Mill Plaza Subdivision, thence east along the south line of Lot 3, Watts Mill Plaza Subdivision, to the east line of Lot 3, Watts Mill Plaza Subdivision, thence north along the east line of Lot 3, Watts Mill Plaza Subdivision, to the south line of lots 18, 19, and 20 Eden Subdivision, thence southeast along the south line of lots 18, 19, and 20, Eden Subdivision to the east line of lots 18, 19, and 20, Eden subdivision, thence south to the west bank of Indian Creek, thence southwest along the west bank of Indian Creek back to the intersecting point of 103rd Street and the west bank of Indian Creek.

- g. Retail sales-by-drink licenses issued to a wine manufacturer to sell only those alcoholic beverages by the drink produced on a premises in close proximity to the winery.
- h. Retail sales-by-drink licenses for premises within Kansas City International Airport.

(2) *Retail sales-by-package licenses.* Two retail sales-by-package licenses may be issued for population of zero to 1,500, and one additional sales-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 the city, and which census blocks are located wholly within or intersected by a 3,000-foot radius from a proposed licensed premises, as measured from the center of the door to be used as the main entrance to the premises. For all other census blocks located in the city that do not abut the city limit lines as described above, one retail sales-by-package license may be issued for population of zero to 1,500, and one additional sales-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 premises, as measured from the center of the door to be used as the main entrance to the premises. For a premises that is currently in operation, the center of the door for the main entrance to the premises shall be determined by the entrance naturally used by the public frequenting the premises. 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 premises. The limitations provided in this section shall not apply to a liquor license applicant who meets any of the following criteria:

- a. An applicant that proposes to operate a retail sales-by-package premises and the 3,000-foot radius, as measured from the center of the door for the main entrance of the premises 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.

- b. A licensed premises that will only be used as a storage space where alcoholic beverages are stored, not sold or served, and the general public is not permitted to enter at any time.
 - c. Retail sales-by-package licenses for premises within Kansas City International Airport
- (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 premises, shall be made by adding the total population as determined by the most recent U.S. Decennial Census or, at the applicant's choice, by requesting from the city planning and development department 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 premises, 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 premises, as measured from the center of the door for the main entrance to the premises, 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 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 issues 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 premises 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 premises located in a census block wholly within or intersected by a 3,000-foot radius from the existing licensed premises, as measured from the center of the door for the main entrance to the premises, 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 premises 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 premises 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 premises.

- (5) An applicant may seek to rebut the presumption that their proposed license is likely to interfere with or be detrimental to the rights or interests of the neighboring community by making a written request to the director describing why they believe a waiver is appropriate. The director may permit waiver if they find that the proposed license is not likely to interfere with or be detrimental to the rights and interests of the neighboring community. In considering a waiver, the director must wait until the conclusion of the eligible neighbor [and neighborhood organization](#) notification period, as outlined in section 10-214, and may consider:
- a. [Whether 50 percent or more of the eligible neighbors who filed a written response with the director, according to the process provided in section 10-214, opposed the granting of a license;](#)
 - b. [Whether an eligible neighborhood organization filed a written response with the director, according to the process provided in section 10-214, opposing the granting of a license;](#)
 - c. [Whether a proposed retail sales-by-drink license will be located within 750 feet of 4 or more C.O.L. licenses, taverns, or bar-restaurants that provide live entertainment;](#)
 - ~~a.d.~~ [Whether a proposed retail sales-by-package license will be located within 750 feet of 4 or more retail sales-by-package licensed businesses;](#)
 - ~~b.e.~~ [The physical characteristics of the proposed premises; relevant geography and character of both the premises and the surrounding neighborhood;](#)

- e.f. The proximity of the premises to other uses and use types and the effect of the exterior lighting, noise, traffic and parking associated with the operation of the premises, with its patrons or with other persons frequenting the premises on the surrounding area;
 - d.g. The type of activity or entertainment to be conducted at the establishment and the days and times during which such activity would take place;
 - e.h. Whether any applicable church or school within 300 feet of the proposed premises supports the requested waiver;
 - f.i. The history of past use at the proposed premises; and
 - g.i. The measures the applicant proposes to implement to maintain quiet and security in conjunction with the establishment.
- (6) The director shall review any request to rebut a presumption, along with any additional information submitted by an eligible neighbor, [eligible neighborhood organization](#), city department, the city police department, and any other information that the director deems relevant. The director shall not make a decision until the eligible neighbor response period has ended as outlined in section 10-214. The director shall issue the decision in writing [and provide reasons for their decision](#) to the applicant, ~~and all responding eligible neighbors, and all responding eligible neighborhood organizations, and provide the reasons for their decision.~~
- (7) The director may grant a conditional license to any applicant whose proposed license is in conflict with this section in order to avoid the proposed premises interfering with or being a detriment to the rights and interests of the neighboring community.

Sec. 10-214- Eligible neighbor and neighborhood organization notification.

- (a) For purposes of this section, eligible neighbors shall include the owners of a minimum of 15 eligible property parcels as defined by geographic information systems maps based on the North American Datum 1983 Missouri West State Plane Coordinate System, maintained by the public works department of the city, wholly within or intersected by a radius of 250 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. For any premises that does not either intersect or include the boundaries of a minimum of 15 eligible property parcels within a radius of 250 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 15 eligible property parcels. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. Regardless of how many parcels an individual may control or own, any individual real person may only submit one written response to the director and only one parcel owned or controlled by an individual shall be considered eligible for purposes of this section,

For parcels that are condominiums, the director shall only be required to notify the homeowners organization which may submit a written response on behalf of the building and all its owners. In lieu of a written response from an eligible property owner under this section, the director shall accept a response in proper form from a tenant if the tenancy is for a term not less than one year.

~~(a)~~(b) For purposes of this section, eligible neighborhood organizations shall include organizations that are registered with the City according to the process provided in Section 88-505-11 as of the date the director receives the completed application and whose boundaries include the proposed premises.

~~(b)~~(c) The eligible neighbor and neighborhood organization notification requirements provided in this section shall apply to:

- (1) Any new premises;
- (2) The expansion of any licensed premises excluding the addition or expansion of a sidewalk cafe, parklet, street cafe, or parking lot dining area that is located on public or park property;
- (3) Notwithstanding any other section of this chapter, any previously licensed or permitted premises where the license or permit was revoked;
- (4) Any licensed premises, including but not limited to a bar-restaurant, tavern, hotel, bowling alley, grocery store or convenience store that changes the type of business that was originally approved by the director;
- (5) Any applicant or licensee intending to provide live entertainment, provide an additional type of live entertainment not identified on their last application or application for renewal, or to increase the frequency of live entertainment, as further outlined in sections 10-270 and 10-332 of this chapter;
- (6) Any change in ownership of a licensed premises unless not required in section 10-266 of this chapter; and
- (7) Any application for extended hours permit.

~~(e)~~(d) An applicant shall furnish with the application 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 premises.

(e) The director shall mail written notification of the filing of an application for a license under this section to all eligible neighbors as determined by subsection (a), along with a response form that the eligible neighbor can complete, within 14 business days of the applicant submitting their completed application. An eligible neighbor may submit the response form

indicating whether they support or oppose the issuance of the license, along with their reason for supporting or opposing the license, within 30 days of the issuance of the notice by the director. Responses shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible neighbor under the provisions of this section. An eligible neighbor may change or withdraw their response during the 30-day period by notifying the director in writing stating their desire to change or withdraw their response.

~~(d)~~(f) The director shall also mail written notification of the filing of an application for a license under this chapter to all eligible neighborhood organizations as determined by subsection (b), along with a response form that the eligible neighborhood organization can complete, within 14 business days of the applicant submitting their completed application. A neighborhood organization may submit the response form indicating whether they support or oppose the issuance of the license, along with their reason for supporting or opposing the license, within 30 days of the issuance of the notice by the director. Responses shall be in writing on a form provided by the director, shall be signed by an authorized representative of the neighborhood organization, and shall be accompanied by a resolution from the board of directors of the neighborhood organization authorizing such representative to execute the response form on behalf of the neighborhood organization.

~~(e)~~(g) The applicant must provide a notarized statement that no eligible neighbor, or tenant of an eligible neighbor, ~~eligible neighborhood organization, or any member of an eligible neighborhood organization~~ has received, either directly or indirectly, anything of value which may include but is not limited to any gift, compensation, loan, favor, privilege, service, courtesy or otherwise, in exchange for their response or not filing a response.

~~(f)~~(h) The director shall also mail written notification of the filing of an application for a license under this section to all neighborhood ~~associations~~ organizations registered with the city in the same zip code as the proposed premises.

~~(g)~~(i) The director shall not accept an application for a sales-by-drink, C.O.L. or sales-by-package licensed premises not within an exception area where 50 percent or more of the eligible neighbors who filed a written response with the director opposed the granting of a license two times within a 12-month period unless 12 months have passed from the date of the most recent denial by the director or withdrawal by an applicant of an application.

~~(h)~~(j) Eligible ~~neighbor~~ and neighborhood organization notification shall not be required or considered for a licensed premises that will only be used as a storage space where alcoholic beverages are stored, not sold or served, and the general public will not be permitted to enter at any time.

Sec. 10-261- Renewals.

- (a) *Renewal period, notification, filing dates, and termination of license due to failure to renew.* The license period for retail or wholesale sale of alcoholic beverages and C.O.L. licenses and permits will be for a period of one year beginning and ending on dates determined by the director. Renewal notification will be sent to licensees 90 days prior to the date of expiration. The completed renewal application is due 30 days prior to the expiration date of the current license and no sales of alcoholic beverages shall be allowed on the premises after the expiration date of the license or permit. Failure to apply for a renewal of a liquor license or permit within 120 days of the expiration date shall render the expired license null and void. An application for renewal of a liquor license or permit received within 120 days of the license expiration date may be considered by the director for approval up to 180 days after the expiration of the license.
- (b) *Proper parties to file application.* In the case of a business owned by an individual, the renewal application shall be filed by the actual owner. In the case of a partnership, separate applications shall be filed by each member of the partnership. In the case of a limited liability company, the renewal application shall be filed by either the managing officer of the business or any member of the limited liability company. In the case of a corporation, the renewal application shall be filed by either the managing officer of the business or a corporate officer of the corporation.
- (c) *Contents of application.* A renewal application shall disclose by affidavit, on a form provided by the director, the following information, along with any other information the director deems necessary:
- (1) The name and address of the owners of the business at the date of filing. If the business is owned by a partnership, then the application shall include the names and addresses of all partners. If the business is owned in whole or in part by a limited liability company then the application shall include the names and addresses of all members of the company. If the business is owned in whole or in part by a corporation, the application shall include the names and addresses of the corporate officers and directors, and all stockholders if the total number of stockholders is less than 15, or, if there are more than 15 stockholders in the corporation, then the applicant shall furnish the names and addresses of all stockholders who hold ten percent or more of the capital stock and the percentage of stock held by each such stockholder.
 - (2) The financial status of the business, including all loans, notes, chattels, mortgages and any and all other outstanding obligations, and the balance due thereon, except current alcoholic beverage bills, or other current bills, for merchandise incidental to the operation of the business for which the license is sought.
 - (3) The banks with which the licensee is doing any business, and the signed consent by the licensee for the director or their authorized representatives to examine any and all business bank accounts, records and other data pertaining to the licensed business.

- (4) The names and addresses of any persons who have contributed any money to, have loaned any money to, or have had any investments in the licensed business during the preceding year. The applicant shall further state the amounts received from those persons, the purpose for which the money was used, and any outstanding obligations and the balance due thereon.
 - (5) Whether the applicant has borrowed or accepted money and a statement that the applicant will not to borrow or accept money in the future from any wholesale supplier of alcoholic beverages or any supplier of coin-operated commercial, manual or mechanical amusement devices, or the employees, officers or agents thereof, or from any owner of coin-operated commercial, manual or mechanical amusement devices on or about the licensed premises, or from any felon or person who is not of good moral character.
 - (6) The names and addresses of any and all persons who may be engaged, either directly or indirectly, in any part of the management and control of the licensed business.
 - (7) Whether the applicant has complied with, during the past year, and will continue to comply with, the provisions of the fair public accommodation sections of chapter 38.
 - (8) Whether the applicant has complied with, during the past year. and will continue to comply with section 10-5 of this chapter.
- (d) *Documentation filed with application.* The following documents shall be filed with applications for renewals:
- (1) If the application is for renewal of a bar-restaurant license, the applicant shall furnish to the director, copies of all city convention and tourism tax returns, showing that 30 percent or more of the gross income of the bar-restaurant for the year preceding the date of the application was derived from the sale of prepared meals and food made for immediate consumption. When 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.
 - (2) If a license has been issued to an applicant who represents at the time of the original application that the licensee has control of parking facilities by ownership, lease or otherwise, and the license was issued relying in part upon that representation, then any renewal application shall include the same or similar representations and proof of control as the director shall require. Loss of parking facilities through no fault of the license holder shall not be cause for denial of renewal.

- (3) If the application is for renewal of a sales-by-drink license, a certification of completion of the National Restaurant Association's ServSafe Alcohol training program, or a certification of completion of a comparable program approved by the director, by a current employee of the licensee who is responsible for managerial or supervisory duties at the licensed premises.
- (e) *Disapproval of application to renew.* The director shall disapprove an application for renewal of any license or permit on the following grounds:
- (1) If any renewal application contains information which does not justify renewal;
 - (2) If the director has other information that the applicant has not met the requirements of this chapter;
 - (3) If the licensee or any employee of the licensee or a permit holder under this chapter is convicted within the current license year in the municipal court of the city or any other court in this state, of three or more violations of this chapter; or
 - (4) If the director has any other information which does not justify renewal. An applicant whose application for renewal of a license or permit has been disapproved may file a written request for a hearing before the board in the manner provided in section 10-62(a) of this chapter. An applicant whose application for renewal of a license or permit has been disapproved may not sell or distribute alcoholic beverages on the premises during the renewal year unless and until:
 - a. The applicant thereafter files a written request for a hearing in the manner provided in section 10-62(a) of this chapter, in which case the disapproval shall be stayed until final adjudication of the matter, except that if one of the reasons for disapproval is the nonpayment of the required license fee set forth in section 10-127 of this chapter or nonpayment of any taxes set forth in section 10-186 of this chapter, then the disapproval shall not be stayed; or
 - b. The disapproval has been reversed or set aside by the director, the board or court order.
- (f) *Considerations for renewal.* In determining whether a renewal application shall be disapproved, the director, or the board, upon appeal, shall consider the following factors:
- (1) Whether the licensee has failed to report a change in ownership in the business or change in management or control of the business that has occurred in the current license year;
 - (2) Whether the licensed premises has changed the character of the surrounding neighborhood or interfered with or been detrimental to the rights or interests of the neighboring community;

- (3) Whether lewd and indecent conduct, including but not limited to public urination, exhibited by persons frequenting the licensed premises or by the licensee or their employees, servants or agents, has occurred on the licensed premises or in the immediate vicinity thereof;
 - (4) Whether crimes or city ordinance violations have been committed upon or in the immediate vicinity of the licensed premises by persons frequenting the premises or by the licensee or their employees, servants or agents;
 - (5) The frequency of disturbances or other incidents upon or in the immediate vicinity of the licensed premises by persons frequenting the premises that have required police presence, response, investigation or other action;
 - (6) Whether the licensee has allowed or permitted any type of entertainment on or about the licensed premises without application to and written approval by the director;
 - (7) Whether the type of entertainment has interfered with or been detrimental to the rights or interests of the neighboring community, and, if any renewal application proposes to change the type of entertainment for the premises, whether the proposed entertainment would interfere with or be detrimental to the rights or interests of the neighboring community, considering those other factors delineated in section 10-212;
 - (8) Whether the sale of illegal drugs or controlled substances or illegal gambling has occurred upon or in the immediate vicinity of the licensed premises by persons frequenting the premises or by the licensee or their employees, servants or agents;
 - (9) Other factors which, due to the character of the surrounding neighborhood or of the licensed premises, would be relevant to the determination of whether renewal of a license or permit would interfere with or be detrimental to the rights or interests of the neighboring community;
 - (10) Whether the licensee or permittee has received prior notice of violations of this chapter or of other factors which may not justify renewal;
 - (11) Whether the licensee or permittee has timely complied with all requirements for and completed the process for renewal of the license; and
 - (12) Whether the licensed premises has changed in size, either through expansion or reduction of square footage.
- (g) Notwithstanding the provisions of sections 10-266 and 10-269 of this chapter, 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 premises shall be required to fulfill all conditions of this chapter for an original license, including but not limited to the requirements in section 10-212.

(h) Upon proper and sufficient evidence submitted to the director, the director shall summarily refuse to renew a retail sales-by-drink license issued to a bar-restaurant upon the failure of the licensed premises to maintain the business as a bar-restaurant at the time of renewal. The decision of the director to disapprove the renewal of any license issued under the provisions of 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 decision of the director to disapprove the renewal of any license issued under the provisions of this subsection shall be appealable to the board in the manner set forth in section 10-62(b) of this chapter.

~~(h)~~(i) Notwithstanding any other provision of this chapter, the director may renew a bar-restaurant license for an establishment that did not derive 30 percent or more of its annual gross sales from the sale of prepared meals and food made and consumed on the premises, if the establishment held a bar-restaurant license in the year immediately prior and the applicant provides documentation that the licensed establishment was closed or had reduced sales in the year immediately prior because of an event or occurrence outside of the control of the applicant that resulted in a state of emergency lasting more than two weeks, as declared by the mayor or governor of Missouri.

~~(i)~~(j) Notwithstanding any other provision of this chapter, the director may renew a bar-restaurant license for an establishment that did not derive 30 percent or more of its annual gross sales from the sale of prepared meals and food made for immediate consumption if the licensee is in compliance with all other provisions of this chapter and all of the following conditions have been met:

- (1) The establishment had a restaurant-bar license prior to December 1, 2021;
- (2) The establishment had annual gross sales of at least \$200,000.00 from the sale of prepared meals and food made for immediate consumption. When 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;
- (3) The establishment has been in continuous operation since December 1, 2021.

..end

Approved as to form:

Andrew Bonkowski
Assistant City Attorney