

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 220515

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-1, Definitions, 10-261, Renewals, and 10-339, Employment of and sales by minors, and enacting in lieu thereof new sections of like number and subject matter to make adjustments based on changes that were recently made to many sections of chapter 10.

WHEREAS, on January 14, 2022, the City Council passed Ordinance No. 210961 which made many necessary changes and updates to Chapter 10; and

WHEREAS, after working with the newly revised Chapter 10 for a few weeks it has been found that revisions are needed to bring the ordinance into compliance with state statute and to allow businesses to continue operating in a necessary manner that they were previously accustomed; 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 Sections 10-1, Definitions, 10-261, Renewals, and 10-339, Employment of and sales by minors, and replacing them with new sections of like number and subject matter to read as follows:

Sec. 10-1. Definitions.

As used in this chapter:

Alcohol beverage vaporizer means any device which, by means of heat, a vibrating element or any method, is capable of producing a breathable mixture containing any one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose and/or mouth.

Alcoholic beverages means malt beverages or intoxicating liquor with an alcohol content of more than 0.5% by volume.

Annual gross sales means the gross sales shown on the prior year's state sales tax receipt or the prior year's convention and tourism tax filings or city occupational license tax receipt for an applicant or licensee.

Bar-restaurant means an establishment having a restaurant or similar facility on the premises which derives 30% or more of its annual gross sales from the sale of prepared meals and food made for immediate consumption as compared to the annual gross sales of alcoholic beverages sold for immediate consumption. For the purposes of determining whether an establishment qualifies as a bar-restaurant under the provisions of this chapter and 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.

Board means the liquor control board of review established by the city under this chapter to conduct regulatory hearings in connection with the administration and enforcement of the provisions of chapter 10 of the city's Code of Ordinances.

Caterer means any establishment whose primary business is the preparation of food and drinks for consumption away from the licensed premises. A caterer must derive 50% or more of its annual gross sales from the sale of prepared meals and food consumed at other approved premises. For the purposes of determining whether an establishment qualifies as a caterer under the provisions of this chapter and 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.

Church means any building or structure regularly and primarily used as a place of worship by any organized religious society, organization or congregation, regardless of whether or not the building or structure was originally designed and constructed for that purpose.

Closed place means a premises licensed under this chapter where all doors are locked and where no customers are in or about the premises.

Coin-or-currency-operated amusement device means pinball machines, marble machines, music-vending machines, pool tables or machines, coin-operated shuffleboards and any other device operated by the insertion of a coin, currency, disc or other insertion piece, whether or not also manipulated by the operator, and which operate for the amusement of the operator, whether or not by registering a score. It shall not include "slot machines," "claw machines," or other machines prohibited by state law. It shall not include machines or devices used bona fide and solely for the vending of service, food, confections or merchandise.

Conditional license or permit means a license or permit issued under this chapter that has additional listed restrictions which must be followed by the licensee or permittee at all times whereby the failure of the licensee or permittee to comply with the restrictions may result in the suspension or revocation of the license or permit.

C.O.L. license means a license for the consumption of alcoholic beverages in or upon a premises which does not possess a license for the sale of alcoholic beverages and where food, beverages or entertainment are sold or provided for compensation as provided in RSMo 311.480.

Concert venue means any establishment used for the presentation of live musical performances, pre-advertised to the public including pre-event tickets sales available through third party ticket vendors, and where total ticket sales exceed \$100,000.00 per year.

Commissioner means the commissioner of revenue of Kansas City, Missouri, or person authorized and designated by the commissioner.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Convention hotel or motel means any hotel or motel containing not less than 100 transient guestrooms, having a meeting room or similar facility with a seating capacity of not less than 50 persons and having a restaurant on the premises.

Customer means any person not an employee who enters or remains upon a licensed premises with actual or implied permission of the licensee or a person who purchases or otherwise partakes of any merchandise, goods, entertainment or other services offered upon the premises.

Dancer means any person performing a semi-nude dance, or who performs a dance for any customers upon the premises of an establishment that allows semi-nude dancing.

Director unless otherwise described, means the director of neighborhoods, or a person designated by the director.

Dwelling means any place that is used regularly or irregularly as a place of repose, sleep, rest or any place containing a bed, cot, divan, couch or any other article of furniture on which an adult person may recline. However, this shall not include any premises used as a hotel, motel, or hotel room

Employee means and includes an agent or servant, and shall be construed to mean every person working for or performing services on behalf of the licensee during actual or scheduled work hours.

Grocery Store means a retail business occupying a space that is at least 15,000 square feet, that primarily stocks a range of everyday items which includes but is not limited to groceries, snack foods, confectionery, toiletries, soft drinks, tobacco products, personal electronics, home essentials, and clothing, that derives at least 70% of its sales from products other than liquor.

Intoxicating liquor or liquor means alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of 0.5% by volume.

Licensee means the holder of any licenses issued under the provisions of this chapter.

Live entertainment means any activity or presentation provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose that utilizes amplified sound, including live music, a DJ, comedian, or variety show.

Location means the property parcel upon which a licensed premises is situated.

Malt beverages means beverages including beer and intoxicating malt liquor that are brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer. Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than 49% of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than 6% by volume, no more than 0.5% of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol

Managing officer means the person(s) designated by the licensee who is in actual management and control of a business licensed under this chapter, and who would be eligible as an individual to receive a license for the sale of alcoholic beverages, and who is a qualified voter of the state.

Microbrewery means a business whose activity is the brewing and selling of beer, with an annual production of 10,000 barrels or less.

Original license means any license issued under this chapter on an application for a new license whether or not the proposed premises was previously licensed under this chapter but shall not mean a renewal license.

Original package means: (a) any package containing one or more standard bottles, cans, or pouches of malt beverages; (b) a package containing 50 milliliters (1.7 ounces) or more of spirituous liquor; or (c) a package containing 100 milliliters (3.4 ounces) or more of vinous liquor in the manufacturer's original container.

Permittee means the holder of an employee's permit, issued under the provisions of this chapter.

Person means an individual, partnership, club or association, firm, limited liability company or corporation, unless the context requires a contrary interpretation.

Premises means the bounds of the enclosure where alcoholic beverages are permitted to be sold, stored or consumed under the authority of this chapter.

School means any building which is regularly used as a public or private elementary school, middle school or high school.

Semi-nude dance means any live exhibition, performance or dance by a person or persons in a state of dress in which opaque clothing covers no more than the areola of the female breast, the genitals or pubic region and anus, as well as portions of the body covered by straps or strings supporting that clothing.

Substantial quantities of food means the amount of prepared meals and food wherefrom at least 50% of the gross income of an establishment has been derived during the three most recent calendar months preceding. For the purposes of determining whether substantial quantities of prepared meals and food constitute at least 50% of the gross income of an establishment under the provisions of this chapter, and calculating the amount and percentage of annual gross income from the sale of prepared meals or 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 or food.

Tavern means any licensed premises that sells liquor by the drink which derives more than 30% its annual gross sales from alcoholic beverages.

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 10% 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.

(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% 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.

(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 3 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
 - (i) 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
 - (ii) 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) Notwithstanding any other provision of this chapter, the director may renew a bar-restaurant license for an establishment that did not derive 30% 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) Notwithstanding any other provision of this chapter, the director may renew a bar-restaurant license for an establishment that did not derive 30% 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.

Sec. 10-339. Employment of and sales by minors.

(a) No retail licensee, nor employee of the licensee, shall permit any person under 21 years of age to directly participate in the retail sale, delivery or dispensation of alcoholic beverages as described in section 10-5 of this chapter upon the licensed premises, except that this prohibition shall not apply to:

- (1) Sales-by-drink licensed premises which do not qualify as a bar-restaurant as defined by section 10-1 **which sell food for consumption on the premises if at least fifty percent of all sales consists of food.** A sales-by-drink or C.O.L. licensee may employ persons 18—20 years of age to work on the premises if the persons

do not directly participate in the retail sale, delivery or dispensation of alcoholic beverages.

- (2) Sales-by-drink licensed premises which qualify as a bar-restaurant as defined by section 10-1 **which sell food for consumption on the premises if at least fifty percent of all sales consists of food**. A sales-by-drink or C.O.L. licensee who sells substantial quantities of food upon the licensed premises may:
 - a. Employ persons 18—20 years of age to work on the premises in the capacity of a waiter or waitress; however, no employee 18—20 years of age shall mix, pour or serve across the bar alcoholic beverages. Minors so employed may serve alcoholic beverages and accept payment for alcoholic beverages, but may not mix or serve alcoholic beverages across the bar. Minors who work as a waiter or waitress and serve alcoholic beverages or accept payment for alcoholic beverages must have a valid employee liquor permit in their possession as required under section 10-291; and
 - b. Employ persons 16 and 17 years of age to work on the premises if the persons do not directly participate in the retail sale, delivery or dispensation of alcoholic beverages. Licensees employing persons 16 or 17 years of age under this subsection shall, prior to employing the minor, require his or her parents or legal guardian to give their written consent to the employment, in a manner and form approved by the director. In addition to placing the minor's name in the register of employees, the consent and proof of the minor's age shall be maintained on file by the licensee and shall be available for inspection, at any time, by the director or the director's agents or the police department during the minor's term of employment. An authentic birth certificate, hospital birth record, religious record or public school record shall be adequate proof of the minor's age. In an emergency, a minor may be employed, without the required consent, for a period not to exceed 48 hours. Minors employed under the terms of this subsection are not required to obtain employee liquor permits under section 10-291.
- (3) Original package sales licenses without 50% gross sales of other merchandise. An original package sales licensee without 50% gross sales of other merchandise may employ persons 18—20 years of age to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages, so long as there is an employee of licensee, not less than 21 years of age, holding a valid employee liquor permit as described in section 10-5 of this chapter, on the licensed premises during all hours of operation. However, delivery of alcoholic beverages away from the licensed premises cannot be performed by any person under 21 years of age. Minors employed under this subsection must have a valid employee liquor permit in their possession as required under section 10-291.

- (4) Original package sales licenses with 50% gross sales of other merchandise. An original package sales licensee where at least 50% of the gross sales consist of goods, merchandise or commodities other than alcoholic beverages may employ persons 18—20 years of age to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages. However, delivery of alcoholic beverages away from the licensed premises cannot be performed by any person under 21 years of age. Minors employed under this subsection may not deliver alcoholic beverages away from the licensed premises. Minors employed under this subsection must have a valid employee liquor permit in their possession as required under section 10-291.
- (5) In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least 18 years of age may be employed and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.
- (6) Any wholesaler licensed pursuant to this chapter may employ persons of at least 18 years of age to:
 - a. Rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor; and
 - b. Unload delivery vehicles and transfer intoxicating liquor into retail licensed premises if such persons are supervised by a delivery vehicle driver who is 21 years of age or older.

(b) Each employee under 21 years of age, allowed to directly participate in the retail sale, delivery or dispensation of alcoholic beverages upon the premises under this section must hold an employee liquor permit as described in section 10-5 of this chapter.

Approved as to form and legality:

Chivonne Scott
Assistant City Attorney