



Legislation Details (With Text)

File #: 230357 **Version:** 1 **Name:**
Type: Ordinance **Status:** Passed
File created: 4/20/2023 **In control:** Council
On agenda: 5/4/2023 **Final action:** 5/4/2023
Title: Sponsor: Councilmember Andrea Bough

Amending Chapter 10, Code of Ordinances, by repealing Section 10-332, Restrictions and prohibited acts by all retail licenses, and enacting in lieu thereof a new section of like number and subject matter which clarifies that marijuana, in any form, cannot be sold or consumed on a licensed premises.

Sponsors: Andrea Bough

Indexes:

Code sections:

Attachments: 1. Docket Memo 230357, 2. 230357com, 3. 230357.Authenticated Ordinance

Date	Ver.	Action By	Action	Result
5/4/2023	1	Council	Passed	Pass
5/3/2023	1	Neighborhood Planning and Development Committee	Adv and Do Pass	Pass
4/20/2023	1	Council	referred	

ORDINANCE NO. 230357

Sponsor: Councilmember Andrea Bough

Amending Chapter 10, Code of Ordinances, by repealing Section 10-332, Restrictions and prohibited acts by all retail licenses, and enacting in lieu thereof a new section of like number and subject matter which clarifies that marijuana, in any form, cannot be sold or consumed on a licensed premises.

WHEREAS, the Regulated Industries Division believes greater clarity is needed regarding the sale and use of marijuana on licensed premises; and 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 10-332, Restrictions and prohibited acts by all retail licenses, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 10-332. Restrictions and prohibited acts by all retail licensees.

(a) *Sales to minors or intoxicated persons.* No retail licensee, nor employee of the licensee, shall allow any alcoholic beverages to be sold, given or otherwise supplied upon the licensed premises to any person who is under of 21 years of age, or to a habitual drunkard, or to any person who is intoxicated or who is actually or apparently under the influence of alcoholic beverage.

(b) *Consumption by minors.* No retail licensee, nor employee of the licensee, shall allow any person under 21 years of age to consume alcoholic beverages upon the licensed premises.

(c) *Sale for off-premise consumption.* No retail licensee or employee of the licensee shall sell any alcoholic beverage that is not in the original package for off-premise consumption, unless it is contained in:

- (1) A growler as outlined in Section 10-337; or
- (2) A rigid, durable, leak-proof, sealable container, that:
 - a. Does not exceed 128 ounces;
 - b. Is designed to prevent consumption without removal of the tamperproof cap or seal;
 - c. Is affixed with a label or a tag that contains the name and address of the business that filled the container, in type not smaller than three millimeters in height and not more than 12 characters per inch, and states, "THIS BEVERAGE CONTAINS ALCOHOL.";
 - d. Does not have a lid with sipping holes or openings for straws;
 - e. Is tamperproof, in that it is either placed in a one-time-use, tamperproof, transparent bag that is securely sealed, or, is sealed with tamperproof tape;
 - f. Is not mixed, poured or served across the bar by a person 18-20 years of age in accordance with sections 10-339 and 10-373; and
 - g. Is ordered simultaneously with a meal, meaning food that has been prepared on premises.
 - h. For the purposes of this section, tamperproof means that a lid, cap, or seal visibly demonstrates when a bag or container has been opened.
- (3) Nothing in this section shall be construed as permitting the sale of any alcoholic beverage not permitted under the premises license, including the sale of alcoholic beverages that are not in the original package for off-premise consumption by anyone who does not have a sales-by-drink license.

(d) *Serving or delivering in vehicles.* No retail licensee, nor employee of the licensee, shall sell or serve any alcoholic beverage to any person while the person is operating or is a passenger in or on any motor vehicle, unless the beverage is in the sealed original package or otherwise meets the exceptions outlined in subsection (c).

(e) *Prostitution.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any act of prostitution as defined in the prostitution chapter of the Missouri Criminal Code, including the solicitation for prostitution.

(f) *Unauthorized sale of property.* No retail licensee, nor employee of the licensee, shall allow any person to offer for sale or sell any personal property upon the licensed premises unless the sale of the property

has been authorized by the licensee or the manager or person in charge of the licensed premises.

(g) *Disorderliness, indecency or obscenity.* Upon the licensed premises, no retail licensee, nor employee of the licensee, shall:

- (1) Fail to immediately prevent or suppress any violent quarrel or disorder, brawl, fight or any other act or conduct prohibited or declared to be unlawful by this chapter.
- (2) Allow language, conduct or songs calculated to provoke a breach of the peace, or obscene literature, entertainment or advertising material.
- (3) Allow any employee, entertainer or customer to perform a dance of any kind upon a bar, table or any other place used for serving food or beverages.
- (4) Allow any person to be unclothed, or in less-than-opaque attire, costume or clothing, so as to expose to view the top of the areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered.
- (5) Allow the performance of any acts of sexual conduct, including actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of the female; or any sadomasochistic abuse or acts including animals or latent objects in an act of apparent sexual stimulation or gratification, as the terms are defined in the pornography and related offenses chapter of the Missouri Criminal Code.
- (6) Allow the display of films or videotapes showing persons unclothed as described in subsection (g)(4) of this section, or allow the display of pictures, films, videotapes or other material depicting acts prohibited by subsection (g)(5) of this section.

(h) *Storing off-licensed premises.* No retail licensee shall store any alcoholic beverage off or outside of the licensed premises unless written request is filed with the director, and written approval is issued by the director; except that a licensee may store alcoholic beverages in a bonded warehouse or central warehouse, if the licensee has first notified the director in writing of their intention to do so.

(i) *Unlicensed beverages on premises.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any alcoholic beverages except the types the licensee is licensed to sell upon those premises.

(j) *Illegal drugs.* No retail licensee, nor employee of the licensee, shall possess, store, sell or offer for sale, give away, distribute, permit the consumption of or deliver any controlled substance or illegal drug or narcotic, as defined in the Missouri Comprehensive Drug Control Act, or similar statutes, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

(k) *Illegal gambling.* No retail licensee, nor employee of the licensee, shall participate or engage in illegal gambling or violate any federal or state laws in connection with gambling, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed

premises.

(l) *Illegally purchased alcoholic beverages.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any alcoholic beverage which they have purchased or secured in violation of any city ordinance, or local, state or federal law.

(m) *Entertainment on premises.* No retail licensee nor employee of the licensee shall allow on or about the licensed premises:

(1) Any type of live entertainment unless the neighbor notification requirement, as outlined in chapter 10-214, has been met and the application has been approved by the director. The term live entertainment, as used in this chapter, shall include but shall not be limited to a dance hall, DJ, two or more live musicians, seminude dancing, stage show, floor show or contest. Any form of entertainment, live exhibition, performance or dance characterized by exposure of specified anatomical areas as that term is defined in section 80-20, or dance performed by a performer who is nude behind an opaque barrier, shall be prohibited unless the licensed location first complies with the zoning requirements set forth under section 80-156.

(2) Any type of entertainment unless the application has been approved by the director. The term "entertainment," as used in this chapter, shall include but shall not be limited to jukeboxes, pool tables, dart boards, video games, pinball machines or any other amusement device operated by the insertion of a coin, disc or other insertion piece.

(n) *Employees dancing on premises.* Upon the licensed premises:

(1) The dancer may perform a dance for a customer or customers but shall not intentionally touch any customer while performing a dance.

(2) The dancer shall not receive any payment or gratuity from any customer unless the payment or gratuity is placed into the dancers' hand or under a leg garter worn by the dancer located at least four inches below the bottom of the pubic region.

(3) No dancer shall dance with any customer.

(4) No dancer shall sit at a table or the bar with any customers.

(5) No customer shall knowingly or intentionally touch any dancer.

(o) *Multiple business names posted on one licensed premises.* Multiple business names may not be posted on the exterior of a licensed premises unless:

(1) There is a separate entrance into the licensed premises for each different business name that will be posted, and;

(2) The original business name is included as part of any new business name and the size of the lettering of the business name is uniform on any interior or exterior sign that will be posted throughout the licensed premises, and;

(3) There must be open public access throughout the entire licensed premises where there are no closed doors or other physical barriers that separate the licensed premises in any way. However, it is permissible to keep any part of the licensed premises closed when it is not in use.

(p) *Nuisances.* No retail licensee or employee of the licensee shall cause a nuisance to or change in character of any residential area or the immediate area surrounding the licensed premises. Nuisances may include but will not be limited to noise, traffic and parking associated with the operation of the premises from patrons or other persons frequenting the premises.

(q) *Lewd and indecent conduct.* No retail licensee, nor employee of the licensee, shall allow lewd and indecent conduct on or within the immediate vicinity of the licensed premises. Lewd and indecent conduct may include but will not be limited to public urination exhibited by persons frequenting the licensed premises or by the licensee or their employees, servants or agents.

(r) *Compliance with law.* No retail licensee, nor employee of the licensee, shall participate in or permit the violation of any federal, state, or local rule or regulation upon the premises.

(s) *Marijuana.* No retail licensee, nor employee of the licensee, shall sell or offer for sale, give away, distribute, permit the consumption of or deliver marijuana, including in food products, upon the premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

Approved as to form:

Andrew Bonkowski
Assistant City Attorney