



Legislation Text

File #: 230419, Version: 2

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230419

Sponsor: Mayor Quinton Lucas and Councilmember Kevin O'Neill

Amending Chapter 10, Code of Ordinances, by repealing Sections 10-5, 10-291, 10-292, and by repealing Sections 10-1, 10-36, 10-105, 10-133, 10-136, 10-138, 10-261, 10-331, 10-335, 10-339, enacting in lieu thereof new sections of like numbers and subject matter, and enacting a new Section 10-5 for the purpose of repealing employee liquor permits and requiring retail sales-by-drink licensed establishments to not employ individuals convicted of sex crimes in the sale, delivery or dispensation of alcoholic beverages.

WHEREAS, restaurant operators have identified employee liquor permits as a barrier to hiring eligible works; and

WHEREAS, the current employee liquor permit system requires people to pay to access jobs in the service industry; and

WHEREAS, employee liquor permits are outdated and not used widely today in other cities across the country; and

WHEREAS, data have not demonstrated direct impacts of employee liquor permits on public health and safety; and

WHEREAS, the City has other liquor control systems in place, including liquor license requirements; and

WHEREAS, the Director of Neighborhoods Services is authorized and empowered to enforce the provisions of this Chapter; and

WHEREAS, the State of Missouri has additional rules governing the sale of alcohol; and 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 Sections 10-5, Employee liquor permit required, 10-291, Generally, and 10-292, Violations; penalty.

Section 2. That Chapter 10, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 10-1, Definitions, 10-36, Denial, suspension or revocation of license or permit, 10-105, General requirements for temporary and annual catering permits, 10-133, Arts and cultural district zone employee and volunteer permits, 10-136, Downtown economic entertainment district zone employee and

volunteer permits, 10-138, Non-profit organization temporary permit for sales by drink, 10-261, Renewals, 10-331, General requirements for all licenses, 10-335, Prohibited acts on sales-by-drink premises, 10-339, Employment of and sales by minors, and enacting in lieu thereof new sections of like number and subject matter.

Section 3. That Chapter 10, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by enacting a new Section 10-5 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 percent 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 percent 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 percent 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 the Neighborhoods Services Department, 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 percent 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 percent 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 percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent by volume, no more than 0.5 percent 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 any permits 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 percent 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 percent 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 percent of its annual gross sales from alcoholic beverages.

Sec. 10-5. Employees prohibited from directly participating in the retail sale, delivery or dispensation of alcoholic beverages.

(a) It shall be unlawful for any licensee to employ an individual convicted of a sex crime to directly participate in the retail sale, delivery or dispensation of alcoholic beverages. The term “directly participate in the retail sale, delivery or dispensation of alcoholic beverages,” as used in this chapter, shall include delivering, taking orders for, accepting payment for, mixing, serving or assisting in mixing or serving alcoholic beverages. It shall be unlawful for any licensee to employ an individual convicted of a sex crime to act in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, sales clerk, doorman, or other person responsible for checking identification cards to determine age.

(b) An individual convicted of a sex crime for purposes of this chapter is defined as a person who:

- (1) Is a registered sex offender as listed on the Dru Sjodin National Sex Offender Public Website; or
- (2) Is a registered sex offender as listed on the Missouri State Highway Patrol Sex Offender Registry; or
- (3) Is a registered sex offender as listed on the Kansas Bureau of Investigation Offender Registration website.

(c) Before hiring any individual to directly participate in the retail sale, delivery or dispensation of alcoholic beverages, each licensee shall verify that such individual is not an individual convicted of a sex crime as described in this section.

(d) The director or his authorized agents, in order to enforce the prohibitions of this section, shall have the right to inspect the licensed premises as provided in section 10-34 and examine the books, records, and papers of each licensee as provided in sections 10-35 and 10-331(g).

(e) Upon adoption of this section, but prior to its effective date, any licensee may certify under penalty of perjury on a form prescribed by the director that:

- (1) The licensee has searched the National Sex Offender Registry for the names of any employees directly participating in the retail sale, delivery or dispensation of alcoholic beverages; and
- (2) The licensee has searched the Missouri State Sex Offender Registry for the names of any employees directly participating in the retail sale, delivery or dispensation of alcoholic beverages.
- (3) The licensee has searched the Kansas Bureau of Investigation Offender Registration website for the names of any employees directly participating in the retail sale, delivery or dispensation of alcoholic beverages.
- (4) The licensee does not employ any individual convicted of a sex crime, as defined in this section, to directly participate in the retail sale, delivery or dispensation of alcoholic beverages.

(f) All retail sales-by-drink licensees shall, at all times, employ at least one individual having managerial or supervisory responsibilities at the licensed premises who has successfully completed the National Restaurant Association's ServSafe Alcohol training program or who has successfully completed a comparable program approved by the Director. Each sales-by-drink licensee shall maintain a copy of such current employee's certification of completion at the licensed premises, which shall be produced to the director or his duly authorized agents upon request.

(g) Whenever it shall be shown or whenever the director has knowledge that any licensee employs a person who has been convicted of a sex crime, and such person has directly participated in the retail sale, delivery or dispensation of alcoholic beverages, the director may seek the revocation of all liquor licenses and permits from the licensee employing such person in violation of this section.

Sec. 10-36. Denial, suspension or revocation of license or permit.

(a) *Grounds.* Whenever it shall be shown or whenever the director has knowledge that:

- (1) A licensee or permittee under this chapter has not at all times maintained an orderly place;
- (2) The licensee or any employee, agent or servant of the licensee has violated any of the provisions of this chapter;
- (3) The license or permit issued under this chapter was obtained through materially false statements in the application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business;
- (4) The licensee or permittee failed to make a complete disclosure of all pertinent information in the application for original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter;
- (5) The licensee, since the issuance of the license, has ceased to be the person actually engaged in

the active control and management of the particular establishment for which the license was issued;

- (6) Anything has occurred which would render the licensee or permittee or licensed premises ineligible or unsuitable for a license or permit under the provisions of this chapter;

then the director shall, in the case of an application for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, disapprove the application, or may, in the case of an existing license or permit issued under this chapter, request a hearing before the board to consider whether to suspend for a period not to exceed 90 days, or revoke, the license or permit.

(b) *Effect of revocation.* Whenever any license or permit shall be revoked under the terms and provisions of this chapter, the licensee shall not thereafter be eligible for any license issued under this chapter at the location that the license was revoked.

Sec. 10-105. General requirements for temporary and annual catering permits.

(a) Requirements.

- (1) *Eligibility.* Only a Kansas City, Missouri liquor-by-the-drink licensee is eligible to receive a catering permit. A catering permit may be issued for the following types of events:

- a. Any outdoor catered event is eligible to be permitted.
- b. An indoor catered event is eligible to be permitted if the premise has a current city and state liquor license.
- c. For any premises that does not have a current city or state liquor license, an indoor catered event is eligible to be permitted if:
 1. An application for a liquor license or catered event has not been denied or withdrawn from the location of the premises where the catered event is to be held, the director has no reason to believe that the proposed premises has or will cause a nuisance to or change in character of the immediate area surrounding the premises, and the director has no reason to believe that lewd and indecent conduct has or will occur on or within the immediate vicinity of the proposed premises. In evaluating whether the proposed premises will cause a nuisance, the director shall consider the factors identified in section 10-212.
 2. The event is private and:
 - A. Everyone in attendance is there by invitation only and a copy of the pre-arranged invitation/guest list, which lists each individual's name who was invited, is available on premises during the catered event, and;
 - B. There is no entry fee, admission charge, door charge, ticket sales or donations of any kind taken to attend the catered event and food,

beverages or entertainment are not being sold or provided for compensation, and;

C. The catered event is not advertised to the public at large in any way.

(2) *Application.* An application and all required documentation must be filed with the director at least five weekdays prior to the date that the scheduled function, occasion, or event is to take place. Upon receipt of all required documentation, including an approved state catering license, the city may issue a catering permit. Failure to provide any of this information will prevent the establishment from obtaining a catering permit. It is mandatory that both a city permit and state license must be available for display upon request of any law enforcement officer and/or investigator designated by the director for any catered event.

(3) *Contents of application.* A liquor-by-the-drink licensee shall submit the completed application to the director on a form provided by the director. Each component shall be considered material to the issuance of the license. The applicant shall provide:

- a. The individual designated as the managing officer or the individual in active control of the original liquor license under this chapter shall submit the application for an annual or temporary catering permit. This individual must provide the name and residential address of the applicant. If the application is on behalf of a partnership, the names, and residential addresses of all partners or any person who has a financial interest in the partnership must be provided. If the application is on behalf of a corporation the name and address of the corporation, and names and residential address of individuals with more than ten percent interest in the corporation must be provided.
- b. A description and address of the proposed liquor-by-the-drink licensed premises for which a license is sought or, in the case of a caterer, where food and alcohol will be stored or prepared for off-premises consumption to which the license will be attached.
- c. Approval from the directors of city planning and development, fire, and health stating that the catered location site complies with respective codes.
- d. The date, starting time and ending time of the function, occasion, or event.
- e. A detailed description of security measures for crowd control, including the number of security employees and the number of commissioned security officers to be present throughout the entire event.
- f. For outdoor events, the number of portable toilets available to all patrons, members, guests or customers.
- g. For outdoor events, a traffic control plan that has been approved by the city public works department and the city police department.
- h. A copy of the state catering license.
- i. If a public street will be blocked off for a function, occasion or event, a permit for a

street closure that has been obtained from the public works department.

- j. Any additional information which the director may reasonably require for consideration of the issuance of a catering permit.
 - k. A statement of tax clearance as outlined in section 10-187.
 - l. A copy of an approval letter between the owner or manager of the property upon which the function, occasion or event is to take place and the sponsor of the function, occasion or event, stating the agreed upon date, starting and ending time, and the actual location of the function, occasion, or event.
 - m. A copy of the agreement letter between the Kansas City, Missouri, liquor-by-the-drink licensee applying for the catering permit and the sponsor for the function, occasion, or event, stating the type of event being hosted.
 - n. A diagram of the premises, which includes a diagram of the areas where the alcohol will be sold and consumed, including:
 - 1. The points of service from which alcoholic beverages will be sold or served;
 - 2. The location where security personnel will be stationed during the event to include all entrances and exits while the function, occasion or event is operating;
 - 3. If the event is to be held outside, a description of the barriers used to contain the event to prevent people from removing alcoholic beverages from the premises; and
 - 4. If the event is to be held outside, the location of any outdoor seating, stages, portable toilets and traffic barriers.
 - o. The director may require the submission of additional items to ensure all requirements have been met.
- (4) *Dance hall permit.* If there will be dancing at the event, the applicant must obtain a dance hall permit. The dance hall permit fee is \$15.00 a day.
- (b) *Limitations.*
- (1) An applicant who is granted a catering permit shall staff the function, occasion or event with at least one employee from the liquor-by-the-drink licensed premises for that specific permitted event.
 - (2) An individual convicted of a sex crime as described in section 10-5 shall not directly participate in the retail sale, delivery or dispensation of alcoholic beverages at a catered function, occasion or event.
 - (3) A catering permit shall only authorize the sale of the same type of alcoholic beverages during the

same operational hours as permitted by the original license held by the applicant.

- (4) Alcohol served at outdoor events must not be served in glass containers.
- (5) No catering permits will be issued for any non-licensed premise when the director determines that the intent is to operate as a venue holding a permanent liquor license.
- (6) A catering permit for any function, occasion or event held outdoors must have a sufficient number of restroom facilities or portable toilets for all persons expected to attend the event as determined by the director.
- (7) Additional limitations may be required by the director.

(c) *Specific requirements for a temporary catering permit.*

- (1) Temporary catering permits shall be effective for a period not to exceed 120 consecutive hours.
- (2) A maximum of four temporary catering permits may be issued during the sale or transfer of an existing license.
- (3) The temporary catering permit fee is \$15.00 a day.

(d) *Specific requirements for an annual catering permit.*

- (1) An annual catering permit allows the licensee to hold an unlimited number of catering events annually.
- (2) Applicants for annual catering permits must submit a catering event notification form as supplied by the director a minimum of five business days in advance of each scheduled function, occasion or event.
- (3) The annual catering permit fee is \$1,500.00. The application fee is \$500.00. The fees are non-refundable.

(e) *Violations.* Any violation of the provisions set forth in chapter 10 of the Code of Ordinances of the city by a person holding a catering permit, or their employee, agent or servant, while operating under a catering permit which occurs on the premises being catered, shall cause the permittee and their employee, agent, or servant to be subject to administrative action by the director and prosecution as provided by chapter 10 as though the violation had occurred on the permittee's original licensed premises.

(f) *Effect of denial of permit.* If the application is denied, an application to protest the denial may be submitted to the director as referred to in chapter 10. If an application for a catered event is denied because the director determines that the proposed premises has or likely will cause a nuisance to or change in character of the immediate area surrounding the premises, the applicant will have the option to request neighbor notification as outlined in section 10-214 of this chapter. If less than 50 percent of the eligible neighbors who file a written response with the director opposed the granting of a license at the premises, the director shall withdraw the determination that the proposed premises has or likely will cause a nuisance to change in the character of the immediate area surrounding the premises.

Sec. 10-133. Arts and cultural district zone employee and volunteer permits.

For licenses authorizing the serving of beer and light wine, persons 18 through 20 years of age may work on the premises if they do not directly participate in the retail sale, delivery or dispensation of beer and light wine in a manner as described in section 10-5 and in accordance with section 10-339.

Sec. 10-136. Downtown economic entertainment district zone employee and volunteer permits.

For licenses authorizing the service of alcoholic beverages by the drink for retail from one or more portable bars within the promotional association sub-zones of the downtown economic entertainment district it shall be unlawful for any person under the age of 21 to directly participate in the sale, delivery or dispensation of alcoholic beverages pursuant to section 10-181 of this chapter. It shall be unlawful for any individual convicted of a sex crime as described in section 10-5 to directly participate in the sale, delivery or dispensation of alcoholic beverages, and to act in the capacity of but not limited to, a bartender, waiter, waitress, doorman, or other person responsible for checking identification cards to determine age.

Sec. 10-138. Non-profit organization temporary permit for sales by drink.

(a) Notwithstanding any other provision of this chapter, a permit for the sale of intoxicating liquor for consumption on premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, festival or similar gathering. The permit shall be issued only for the calendar days named therein and shall not authorize the sale of intoxicating liquor for more than 12 days in a calendar year by any such club or organization.

- (1) The applicant shall complete a form provided by the director no later than ten week days before the special non-profit event will take place. The application shall include:
 - a. The date and description of the special non-profit event.
 - b. The name and address of the applicant.
 - c. The location of the non-profit event.
 - d. The name and date of all special non-profit events previously conducted by the applicant during the current calendar year,
- (2) The applicant shall pay a daily fee of \$15.00 for each day on which the event is to be conducted.
- (3) Any person who directly participates in the retail sale, delivery or dispensation of alcoholic beverages during a permitted non-profit event, as described in this section, shall not be an individual convicted of a sex crime as described in section 10-5.

- (4) If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 6:00 a.m.
- (5) The non-profit organization shall collect and provide to the city sales taxes due the city at the rate so designated by state and city ordinance at the time of the event.
- (6) Wholesalers or distributors may provide customary storage, cooling or dispensing equipment for use by the permit holder during the days and hours authorized for the event.
- (7) During non-profit events all persons directly participating in the retail sale, delivery or dispensation of alcoholic beverages, as defined in section 10-5 of this chapter must be 21 years of age.

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) 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) 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.

Sec. 10-331. General requirements for all licensees.

(a) *Responsibility of licensee.* Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the provisions of this chapter or the regulations of the director.

(b) *Duty to report.* In the event that any licensee or an employee of the licensee knows or should have known that an unlawful or violent act has been committed upon or about the licensed premises, the licensee, or the employee, shall immediately report the occurrence to the director and the police department. The licensee and his employees shall cooperate with any law enforcement authority, agents of the Missouri Division of Liquor Control, and the director, or the director's agents, during the course of any investigation into the occurrence.

(c) *Licenses posted on premises.*

- (1) While doing any business during the time for which a city alcoholic beverage license has been granted, all licensees shall post and keep displayed the license in a conspicuous place on the licensed premises so that any person visiting the premises may readily see the license, while the license is in effect. No licensee shall post the license or allow the license to be posted upon premises other than the premises licensed, or knowingly deface, destroy, or alter the license in any respect.
- (2) A licensee shall also keep prominently displayed on the licensed premises, at all times while the city alcoholic beverage license is in effect, all federal tax stamps and state licenses, and county licenses, if applicable, issued to the licensee or to the licensed premises.
- (3) For purposes of this chapter, if alcoholic beverages are sold, stored, distributed or consumed on the premises, and a city alcoholic beverage license is not posted in the manner as provided by this section, it shall be prima facie evidence that the premises is not licensed.

(d) *Dress code posted on premises.* All licensees that have a dress code in effect which may either allow or disallow any person from entering the licensed premises shall:

- (1) Post and display the dress code in a conspicuous place within three feet of each entrance of the licensed premises during all operational hours so that it may be readily seen by any person visiting the premises. The posted dress code shall be in a print not less than 24-point, bold type and shall list all restrictions that will either allow or disallow any person from entering the

licensed premises.

- (2) Enforce the dress code as it is written and not deviate from the posted dress code by either allowing or disallowing a person from gaining entry into the licensed premises based on criteria other than what is listed on the posted dress code.
- (3) Be in compliance with public accommodations ordinances as outlined in chapter 38.

(e) *Condition of premises.* All licensees shall at all times keep the licensed premises safe, clean and sanitary and in accordance with the applicable rules, regulations and ordinances of the city.

(f) *Telephone.* All licensees shall provide the number, including unlisted numbers, of any telephone used upon the licensed premises to the director, which number(s) shall remain a part of the licensee's record. The licensee shall notify the director, within five days, of the change of any telephone number upon the licensed premises.

(g) *Books and records.*

- (1) All licensees shall keep complete and accurate records pertaining to the business. The records shall include a complete and accurate record of all purchases and gross sales of alcoholic beverages, prepared meals and food. The records shall include the names and addresses of all persons from whom alcoholic beverages are purchased, the dates, kinds and quantities of the purchases, and the dates and amounts of payments on account.
- (2) All retail sales-by drink and sales-by-package licensees shall maintain on the licensed premises at all times a current record of all employees including the name, address, job title or classification, date of employment, and a color copy of a valid photo ID for each employee, which shall be made available for immediate inspection upon request of the director or his agents or any member of the police department.
- (3) A licensee shall also keep all files, books, records, papers, state, county or city licenses, federal tax stamps, accounts and memoranda pertaining to the business conducted by the licensee, and shall also keep all records required by the director. Upon request of the director or his duly authorized agents and auditors, a licensee shall, within 48 hours, allow an inspection and audit to be made by the director or his agents of the files, books, records, papers, state, county or city licenses, federal tax stamps and accounts and memoranda, and shall allow copies to be made and taken of them. All records required to be kept by law or by regulation of the director shall be kept and preserved for a period of two years from the date the record was made. A licensee shall establish and maintain a uniform system of bookkeeping and accounts, according to generally accepted accounting practices.

(h) *Distribution of earnings or assets.* Any licensee, upon request of the director, shall file within 30 days, an affidavit showing the payment, or other distribution of all earnings or assets and the name and address of all persons to whom distribution or payment was made. Information furnished pursuant to this provision shall be confidential, except that it may be used for the purpose of administration and enforcement of liquor control laws and ordinances.

Sec. 10-335. Prohibited acts on sales-by-drink premises.

(a) Upon the licensed premises of a sales-by-drink licensee, no licensee, nor any employee of the licensee, shall:

- (1) Allow any person to remove from the premises any alcoholic beverage provided for consumption on the premises;
- (2) Sell, give away or serve water, soda water, phosphates or any other kind of liquid to be used for the purpose of mixing intoxicating drinks, commonly referred to as "setups;"
- (3) Allow any customer, while in or upon the premises, to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer, malt, phosphates or any other kind of liquid or other liquor;
- (4) Allow any person to drink or consume any alcoholic beverage directly out of any bottle, if the volume size of the bottle exceeds 16 ounces, or if the alcohol content of the beverage exceeds 15 percent, by volume;
- (5) Allow any employee to solicit any customer to purchase alcoholic beverages or nonalcoholic beverages, either for that employee or for another employee;
- (6) Allow any employee directly participating in the sale of alcoholic beverages as defined by section 10-5 to consume any alcoholic beverage;
- (7) Allow any employee directly participating in the sale of alcoholic beverages as defined by section 10-5 to sit at any bar or table with any customer except for a reasonable period of time while actually engaged in taking a food or drink order;
- (8) Allow any employee, except a dance instructor, to dance with any customer; or
- (9) Sell or give away any drug, medicine or controlled substance to any person, provided that nothing in this section shall prohibit the licensee, any of its employees or any other person from possessing or using a drug, medicine or controlled substance in a lawful manner. This subsection shall not apply to hotels, apartment hotels, motels, inns, lodges or similar places providing principally transient residential accommodations and having at least 40 rooms for overnight accommodation or bar-restaurant as defined in this chapter.

(b) This section shall not be construed to prohibit any of the acts described in subsections (1) through (4) of this section in any private guest room or private dining room of any duly licensed hotel, motel or club.

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 50 percent of all sales consists

of food. A sales-by-drink or C.O.L. licensee may employ persons 18 to 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 50 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 to 20 years of age to work on the premises in the capacity of a waiter or waitress; however, no employee 18 to 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 not be individuals convicted of sex crimes as described in section 10-5; 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.
- (3) Original package sales licenses without 50 percent gross sales of other merchandise. An original package sales licensee without 50 percent 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 who is not less than 21 years of age 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.
- (4) Original package sales licenses with 50 percent gross sales of other merchandise. An original package sales licensee where at least 50 percent 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.
- (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 shall not be an individual convicted of a sex crime as described in section 10-5.

Approved as to form:

Andrew Bonkowski
Assistant City Attorney