File #: 260872, **Version:** 1

ORDINANCE NO. 260872

Sponsor: Councilmember Wes Rogers

Amending Chapter 10, Code of Ordinances, "Alcoholic Beverages," by repealing and replacing Sections 10-106 and 10-214, for the purpose of removing and clarifying certain eligibility and waiver provisions for 3:00 a.m. closing permits.

FINANCE COMMITTEE recommends "Advance and Do Pass, Debate."

WHEREAS, a business holding a license pursuant to Sections 10-102, 10-103, 10-134 or 10-135 sales-by-drink license in a convention trade area can apply for a 3:00 a.m. closing permit; and

WHEREAS, as a condition of eligibility, the applicant's business must be located within the convention trade area as defined by the City and the Director must determine, pursuant to Section 10-212, that the extended hours are not likely to interfere with or be detrimental to the rights or interests of the neighboring community; and

WHEREAS, the City desires to allow new businesses who meet the additional requirements of Section 10-106 to obtain a 3:00 a.m. closing permit without needing to show documentation of $125,000.00 in annual gross sales and desires to remove the conditions required for hotels and motels in the convention trade area;

WHEREAS, the City recognizes that, for businesses undergoing a change in ownership, certain exceptions may apply that do not require a determination that issuing the license would be detrimental to the rights or interests of the neighboring community; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 10, Code of Ordinances, "Alcoholic Beverages," is amended by repealing Sections 10-106 and 10-214,and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 10-106. Extended hours permits.

(a) *Convention trade area 3:00 a.m. closing permit-Eligibility.*

(1) A convention trade area 3:00 a.m. closing permit, authorized by RSMo 311.174, authorizes the licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink license to remain open between 1:30 am. and 3:00 a.m., if they meet the location requirement outlined in section 10-212, and:

a. The applicant's business is located within the convention trade area. Pursuant to RSMo 311.174, the city's convention trade area is hereby designated as all that territory within the corporate limits of the city; and

b. The director determines that the extended hours permit is not likely to interfere with or be detrimental to the rights or interests of the neighboring community, pursuant to section 10-212.

(2) Package sales. No retail licensee holding a convention trade area 3:00 a.m. closing permit pursuant to this section, nor employee of the licensee, shall sell, give away, otherwise dispose of or allow the removal from the licensed premises any alcoholic beverages in the original package or suffer the same to be done on or about the licensed premises between the hours of 1:30 a.m. and 6:00 a.m.

(3) Notwithstanding the limitations contained in this section, the director may waive the gross sales requirement for an establishment that held a convention trade area 3:00 a.m. closing permit in the year immediately prior, if 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.

(b) *Temporary 3:00 a.m. closing permit-Eligibility.*

(1) A temporary 3:00 a.m. closing permit, authorized by RSMo 311.088, authorizes the licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink license to remain open between 1:30 am. and 3:00 a.m. within one 24-hour period if they meet the location requirements as outlined in section 10-212.

(2) Package sales. No retail licensee holding a temporary 3:00 a.m. closing permit pursuant to this section, nor employee of the licensee, shall sell, give away, otherwise dispose of or allow the removal from the licensed premises any alcoholic beverages in the original package or suffer the same to be done on or about the licensed premises between the hours of 1:30 a.m. and 6:00 a.m.

(c) *Nonprofit organization 6:00 a.m. closing permit-Eligibility.*

(1) A nonprofit organization 6:00 a.m. closing permit authorized by RSMo 311.174 authorizes a licensee who holds a section 10-102, 10-103, 10-134 or 10-135 sales-by-drink license to remain open between 1:30 a.m. and 6:00 a.m., if they meet the location requirements as outlined in section 10-212., and:

a. The applicant is a nonprofit organization exempt from federal income taxes under section 501(C)(7) of the Internal Revenue Code of 1986 as amended; and

b. The applicant is located in a building designated as a national historic landmark by the United States Department of Interior; and

c. The applicant's business is located within the convention trade area. Pursuant to RSMo

311.174, the city's convention trade area is hereby designated as all that territory within the corporate limits of the city.

(d) An applicant seeking to acquire an existing convention trade area 3:00 a.m. closing permit as part of the change of ownership of an existing business shall not be required to go through the eligible neighbor and neighborhood notification process as set forth in sections 10-212 and 10-214. For all other applications for 3:00 a.m. closing permits, required eligible neighbors under sections 10-212 and 10-214 shall be a minimum of 30 property parcels that are wholly within or intersected by a radius of 500 feet from the proposed premises, and, for any premises that does not either intersect or include the boundaries of a minimum of 30 property parcels within a radius of 500 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 30 property parcels.

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

(a) For purposes of this section, eligible neighbors shall include the owners of a minimum of 15 eligible property parcels as defined by geographic information systems maps based on the North American Datum 1983 Missouri West State Plane Coordinate System, maintained by the public works department of the city, wholly within or intersected by a radius of 250 feet from the proposed premises, as measured from the center of the door for the main entrance to the premises. For any premises that does not either intersect or include the boundaries of a minimum of 15 eligible property parcels within a radius of 250 feet, the radius will be increased by segments of 100 feet not to exceed 1,500 feet until the premises is intersected by or within the boundaries of a minimum of 15 eligible property parcels. The center of the door for the main entrance to the premises shall be determined by the entrance most used by the public frequenting the establishment. Regardless of how many parcels an individual may control or own, any individual real person may only submit one written response to the director and only one parcel owned or controlled by an individual shall be considered eligible for purposes of this section. For parcels that are condominiums, the director shall only be required to notify the homeowners organization which may submit a written response on behalf of the building and all its owners. In lieu of a written response from an eligible property owner under this section, the director shall accept a response in proper form from a tenant if the tenancy is for a term not less than one year.

(b) For purposes of this section, eligible neighborhood organizations shall include organizations that are registered with the city according to the process provided in section 88-505-11 [of the city's Zoning and Development Code] as of the date the director receives the completed application and whose boundaries include the proposed premises.

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

(1) Any new premises;

(2) The expansion of any licensed premises excluding the addition or expansion of a sidewalk cafe, parklet, street cafe, or parking lot dining area that is located on public or park property;

(3) Notwithstanding any other section of this chapter, any previously licensed or permitted premises where the license or permit was revoked;

(4) Any licensed premises, including but not limited to a bar-restaurant, tavern, hotel, bowling alley, grocery store or convenience store that changes the type of business that was originally approved

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by the director;

(5) Any applicant or licensee intending to provide live entertainment, provide an additional type of live entertainment not identified on their last application or application for renewal, or to increase the frequency of live entertainment, as further outlined in sections 10-270 and 10-332 of this chapter;

(5) Any change in ownership of a licensed premises unless not required in section 10-266 of this chapter; and

(7) Any application for extended hours permit, except neighbor and neighborhood organization notification as outlined in this section shall not be required for an applicant seeking to acquire an existing convention trade area 3:00 a.m. closing permit as part of the change of ownership of an existing business.

(d) An applicant shall furnish with the application two coordinates, expressed in feet, based on the North American Datum 1983 Missouri West State Plane Coordinate System, identifying the center of the door for the main entrance to the premises.

(e) The director shall mail written notification of the filing of an application for a license under this section to all eligible neighbors as determined by subsection (a), along with a response form that the eligible neighbor can complete, within 14 business days of the applicant submitting their completed application. An eligible neighbor may submit the response form indicating whether they support or oppose the issuance of the license, along with their reason for supporting or opposing the license, within 30 days of the issuance of the notice by the director. Reponses shall be in writing on a form provided by the director and shall contain a statement that the person signing is a bona fide eligible neighbor under the provisions of this section. An eligible neighbor may change or withdraw their response during the 30-day period by notifying the director in writing stating their desire to change or withdraw their response.

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

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

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

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

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

Approved as to form:

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Emalea Kohler
Associate City Attorney