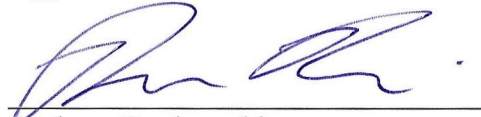


(d) *Revocation, appeal.* The director shall have the authority to revoke an expansion of licensed premises issued pursuant to this section for any reason provided in section 10-36. The revocation of an expansion of licensed premises issued pursuant to this section shall be appealable as provided in section 10-62 (a), (c) and (d). However, an eligible voter shall have no right to appeal the approval or location of an expansion of licensed premises issued pursuant to this section.

Section 2. That Chapter 10, Code of Ordinances of Kansas City, Missouri, is hereby amended by repealing Section 10-141, Temporary approval of expansion of premises for sidewalk cafes, parklets, and street cafes.

Approved as to form:



Andrew Bonkowski
Assistant City Attorney



Authenticated as Passed


Quinton Lucas, Mayor
Marilyn Sanders, City Clerk

DEC 12 2024

Date Passed



File #: 241045

ORDINANCE NO. 241045

Amending Chapter 10, Code of Ordinances, Alcoholic Beverages, by repealing and replacing Sections 10-1, 10-130, and 10-142 and repealing Section 10-141 for the purpose of authorizing the director to approve the expansion of premises for parking lots and greenspace previously granted temporary approval pursuant to Section 10-142.

WHEREAS, on May 21, 2020, City Council passed Committee Substitute for Ordinance No. 200377, As Amended, to permit eating and drinking establishments to use parking lots and greenspace for outdoor dining space due to the COVID-19 virus and to authorize the temporary approval of the expansion of premises for retail sales-by-drink licenses to support the continuation of local business and protect the health and safety of Kansas City residents; and

WHEREAS, on October 15, 2020, City Council passed Ordinance No. 200860 to extend the authorization for the director to grant temporary approval of the expansion of premises for retail sales-by-drink licenses into parking lots and greenspace until April 19, 2021; and

WHEREAS, on April 8, 2021, City Council passed Ordinance No. 210320 to extend the authorization for the director to grant temporary approval of the expansion of premises for retail sales-by-drink licenses into parking lots and greenspace until August 31, 2021; and

WHEREAS, on August 19, 2021, City Council passed Ordinance No. 210693 to extend the authorization for the director to grant temporary approval of the expansion of premises for retail sales-by-drink licenses into parking lots and greenspace until December 31, 2021; and

WHEREAS, the City Council seeks to provide clarity and ease the administrative burden for business establishments previously approved for temporary expansion of premises for their retail sales-by-drink license; 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 10-1, Definitions, Section 10-130, Sidewalk café, parklet, street café, or parking lot alcohol license expansion, and Section 10-142, Temporary approval of expansion of premises for parking lots and greenspace, and replacing with 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 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 on the licensed premises 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, performer, stage show, floor show, or contest.

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 non-beverage 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 non-beverage 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, or an agent capable of representing and binding the corporation or other entity during all interactions or proceedings with the director or a designated representative dealing with the provisions of 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. If the managing officer is not an officer or an employee with the general control and superintendence of the licensed premises, the managing officer must have limited power of attorney to represent and bind the corporation or other entity during all

interactions with the supervisor or a designated representative dealing with the provisions of this chapter.

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. 10-130. Sidewalk café, parklet, or street café alcohol license expansion.

(a) Any sales-by-drink licensee may apply for an expansion of premises. An expansion of premises will not include adding or expanding a sidewalk café, parklet, or street café that is located on public or park property, as further described in sections 64-168, 64-170 and 64-171.

(b) Upon receiving a permit for a sidewalk café, parklet, or street café, the licensee shall furnish such permit to the director.

(c) Any person licensed under this chapter that has a sidewalk café permit, parklet permit, or street café permit shall not allow employees or agents thereof, or any other person, to remove any alcoholic beverage provided for consumption on the permitted premises unless otherwise stated in this chapter.

Sec. 10-142. Approval of expansion of premises for parking lots and greenspace.

(a) *Approval authorized.* Notwithstanding the requirements of sections 10-161, 10-162, 10-212, 10-214, and 10-312, the director is authorized to approve an expansion of licensed premises for the use of parking lots and greenspace as outdoor dining space pursuant to the following conditions:

- (1) The licensee has an active sales-by-drink license as issued by the director.
- (2) The licensee is in compliance with the standards and conditions related to outdoor seating for eating and drinking establishments contained in section 88-420-18-C.
- (3) The licensee was previously approved for temporary approval of expansion of premises for parking lots and greenspace pursuant to Committee Substitute for Ordinance No. 200377, as amended, Ordinance No. 200860, Ordinance No. 210320, or Ordinance No. 210693.
- (4) The licensee is in compliance with all other requirements of this chapter.

(b) *Approval process.* The director shall verify that the licensee conforms to the requirements in subsection (a) of this section. If the applicant meets the requirements of subsection (a) above, the director shall approve an expansion of licensed premises and immediately notify the licensee that it has been approved. If the applicant does not meet the requirements of subsection (a) above, the director shall deny the application for expansion of premises. The denial of such application shall be appealable as provided in section 10-62 as provided in section 10-62 (a), (c), and (d).

(c) *Consumption on premises.* Except as otherwise authorized by law, the licensee, and all employees or agents thereof shall not remove or allow any other person to remove any alcoholic beverage provided for consumption from the licensed premises, including the expanded premises as authorized by this section.