



Legislation Details (With Text)

File #: 210693 **Version:** 1 **Name:**

Type: Ordinance **Status:** Passed

File created: 8/12/2021 **In control:** Transportation, Infrastructure and Operations Committee

On agenda: 8/18/2021 **Final action:** 8/19/2021

Title: Amending Chapter 10, Code of Ordinances, by repealing or replacing several sections to amend the hours for Sunday liquor licenses to comply with recent changes to state law, remove prohibitions on to-go cocktails, and extend the temporary expansion of outdoor dining; and amending Chapter 64, Code of Ordinances, by repealing Section 64-172, "Temporary permits for sidewalk cafés, parklets and street cafés," and enacting a new section of like number and subject matter to extend the temporary permit program to December 31, 2021.

Sponsors: Andrea Bough, Eric Bunch, Kevin O'Neill, Quinton Lucas

Indexes:

Code sections:

Attachments: 1. Authenticated Ordinance 210693, 2. 210693 Compared Version

Date	Ver.	Action By	Action	Result
8/19/2021	1	Council		
8/18/2021	1	Transportation, Infrastructure and Operations Committee	Adv and Do Pass, Debate	Pass
8/12/2021	1	Council	referred	

ORDINANCE NO. 210693

Amending Chapter 10, Code of Ordinances, by repealing or replacing several sections to amend the hours for Sunday liquor licenses to comply with recent changes to state law, remove prohibitions on to-go cocktails, and extend the temporary expansion of outdoor dining; and amending Chapter 64, Code of Ordinances, by repealing Section 64-172, "Temporary permits for sidewalk cafés, parklets and street cafés," and enacting a new section of like number and subject matter to extend the temporary permit program to December 31, 2021.

WHEREAS, in response to the declaration of a state of emergency due to the COVID-19 pandemic, on May 21, 2020, the City Council passed Committee Substitute for Ordinance No. 200376, As Amended, and Committee Substitute for Ordinance No. 200377 which enacted a new section in Chapter 64, Code of Ordinances, entitled "Streets, Sidewalks and Public Places," and in Chapter 10, Code of Ordinances, entitled "Alcoholic Beverages," that authorized the issuance of temporary sidewalk café, parklet and street café permits and the expansion of premises retail sales-by-drink licenses to allow certain existing public parking spaces to be used for temporary dining purposes through December 31, 2020; and

WHEREAS, in response to an extension of the state of emergency, on October 22, 2020, the City Council passed Ordinance No. 200892 which extended the temporary sidewalk and street café and parklet programs and the expansion of liquor licenses premises into outdoor dining spaces until April 19, 2021; and

WHEREAS, on April 8, 2021, the City Council passed Ordinance No. 210319 and Ordinance No. 210320 which further extended the temporary sidewalk and street café and parklet programs and the expansion

of liquor licenses premises into outdoor dining spaces until August 31, 2021; and

WHEREAS, the state of Missouri has recently made several changes to state laws implicating the sale of alcoholic beverages; and

WHEREAS, the City wishes to be consistent with state law; and

WHEREAS, the City wishes to continue to encourage and support businesses by maintaining regulations to support their growth in the city and the safety of its citizens; and

WHEREAS, the City wishes to encourage the continued use of outdoor spaces which can add additional economic activity to City businesses during the recent surge in COVID-19 cases and the delta variant; and

WHEREAS, the City Council desires that the temporary program for sidewalk cafés, street cafés and parklets and the expansion of liquor licenses premises into outdoor dining spaces be further extended to December 31, 2021; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 10, Code of Ordinances, is hereby amended by repealing the following sections and replacing them with new sections to read as follows:

Sec. 10-102. Eligibility and requirements for sales-by-drink license.

(a) A full sales-by-drink license authorizes the licensee to sell all kinds of alcoholic beverages by the drink and to sell alcoholic beverages in the original package on the licensed premises. Each license shall be further classified into one of the sales-by-drink classifications set forth in this chapter.

(b) No sales-by-drink license authorized under sections 10-102, 10-103, 10-104, 10-105, 10-106, 10-107, 10-108 and 10-110 of this chapter shall be issued to any of the following businesses:

- (1) Drugstore which as used in this section is defined as a retail store centrally featuring a pharmacy that dispenses prescription medication and sells over-the-counter medications as well as other miscellaneous items which includes but is not limited to products such as candy, cosmetics, cleaning supplies, light refreshments, magazines and paperback books.
- (2) Cigar and tobacco store which as used in this section is defined as a retail store of tobacco products which primarily specializes in selling various forms of tobacco and tobacco accessory products which includes but is not limited to pipes, lighters, matches, pipe cleaners, and pipe tampers.
- (3) Convenience-grocery store which as used in this section is defined as any small retail business that primarily stocks a range of everyday items which includes but is not limited to groceries, snack foods, confectionery, toiletries, soft drinks, tobacco products, magazines and newspapers, where the licensed premises is less than 15,000 square feet.
- (4) Small liquor store which as used in this section is defined as a retail business that primarily sells pre-packaged alcoholic beverages where the licensed premises is less than 15,000 square feet.

(5) A gasoline station or motor vehicle repair shop.

(c) A caterer with a full sales-by-drink license authorizes the caterer to sell all kinds of alcoholic beverages by the drink for consumption away from the licensed premises at other premises approved by the director. Each license shall be further classified into one of the sales-by-drink classifications set forth in this chapter.

(d) To the extent permitted by Missouri law, a manufacturer or microbrewery may be granted a sales-by-drink license for the licensed premises and a wine manufacturer may be granted a sales-by-drink license for a premises in close proximity to the winery, provided the licensee meets all other provisions of this Chapter. Any licensee who previously held a sales-by-drink specialty license and any manufacturer, microbrewery, or wine manufacturer who previously held a sales-by-drink license may renew their license as a normal sales-by-drink license provided that:

- (1) The licensee held an active sales-by-drink specialty license or sales-by-drink license as of November 1, 2020; and
- (2) The licensee meets all other of the standards for renewal as required by this chapter.

Sec. 10-104. Sunday licenses.

○ ○ ○ ○ ○ (a) A Sunday license authorizes the licensee to sell alcoholic beverages at retail on the licensed premises under the conditions and during the hours herein specified on Sunday in addition to the legal hours and days set out in section 10-333 except, if the licensee holds a valid license or permit pursuant to the provisions of section 10-106, then the licensee may be open for business in accordance with the provisions of the license or permit. The consent requirement as outlined in section 10-214 of this chapter must be met in order to receive a Sunday license.

(b) *Sunday license types and requirements.*

- (1) *Retail sales by drink Sunday license.* A retail sales by drink Sunday license authorizes the licensee to sell the same kinds of alcoholic beverages by the drink as authorized by the license holder's retail sales by drink license for consumption on the licensed premises between the hours of 6:00 a.m. on Sunday and 1:30 a.m. on Monday.
- (2) *Retail sales by package Sunday license.* A retail sales by package Sunday license authorizes the licensee to sell the same kinds of alcoholic beverages as authorized by the license holder's retail sales by package license between the hours of 6:00 a.m. on Sunday and 1:30 a.m. on Monday.

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 consent requirement as outlined in section 10-214 with the exception that a minimum of 30 eligible property parcels within a radius of a minimum of 500 feet is required, 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 either, the applicant's business is a convention hotel or motel or the applicant's business is not a convention hotel or motel but is located not more than 1.5 drivable miles as measured from the outside walls of a hotel, defined as any structure, or building, under one management, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being so provided, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests or permanent guests, and having more than 100 bedrooms furnished for the accommodation of such guests
 - b. and the applicant's annual gross sales at said business for the year immediately preceding the application for a 3:00 a.m. closing permit equals \$125,000.00 or more; provided, however, that the director may waive the foregoing gross sales requirement for a business located in the downtown economic entertainment district if requested by the applicant and the request is supported by documentation that the business should produce annual gross sales equal to \$125,000.00 or more. If this waiver is granted, the applicant, after 90 days of operation, shall produce proof that the gross sales for said 90 days of operation, when projected on an annualized basis by multiplying the gross sales for the 90 days of operation times four, will be satisfied, and, if not, the 3:00 a.m. closing permit will be canceled by the director without refund. The cancellation shall be appealable to the board in the manner set forth in section 10-62 of this chapter. Any convention hotel or motel or business that has a current convention trade area 3:00 a.m. closing permit that does not meet the requirement of having annual gross sales equal to or greater than \$125,000.00 at the time their 3:00 a.m. permit is up for renewal after the ordinance from which this section derives has passed will have one year thereafter to fulfill the \$125,000.00 annual gross sales requirement.
 - c. A convention hotel or motel that has a current convention trade area 3:00 a.m. closing permit but has fewer than 100 transient guestrooms or a business that has a current convention trade area 3:00 a.m. closing permit which is located more than 1.5 drivable miles from a convention hotel or motel will be allowed to maintain its convention trade area 3:00 a.m. closing permit as long as all other requirements of this chapter have been met.
- (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 subsection (a)(1)b herein, a sales by drink establishment licensed under this chapter located in that area bounded by and including the block face frontage of the north side of 17th Street Terrace, the east side of Woodland Avenue, the south side of 19th Street and the west side of Paseo Boulevard that has annual gross sales of \$125,000.00 or more for the year immediately preceding the application for a 3:00 a.m. closing permit and meets all other requirements herein is eligible for such permit.

(4) 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 a.m. and 3:00 a.m. within one 24-hour period if they meet the consent requirement as outlined in section 10-214 t a minimum of 30 eligible property parcels within a radius of a minimum of 500 feet is required. Any licensee that is granted a temporary 3:00 a.m. closing permit shall only be authorized to receive up to six such special permits in a calendar year.

(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 to remain open between 1:30 a.m. and 6:00 a.m., if they meet the consent requirement as outlined in section 10-214 with the exception that a minimum of 30 eligible property parcels within a radius of a minimum of 500 feet is required, 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.

Sec. 10-107. Fourth of July celebration temporary malt beverage and light wine sales-by-drink permit.

- ○ ○ ○ ○ Pursuant to RSMo 311.218, other provisions of this chapter to the contrary notwithstanding, a permit for the sale of light wine and malt beverages for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of light wine and malt beverage at any picnic, bazaar, fair, festival or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the

United States. The permit shall be issued only during the period from June 15 to July 15 annually and only for the days named therein, and it shall not authorize the sale of light wine and malt beverage except between the hours of 6:00 a.m. and 1:30 a.m. and for not more than seven days by any organization. The permit may be issued to cover more than one place of sale within the general confines of the place where the gathering or event is held. Any wholesaler or distributor may provide customary storage, cooling or dispensing equipment for use by the holder of the permit at the gathering or event.

Sec. 10-113. Malt beverage original package sales license.

- ○ ○ ○ ○ A malt beverage original package sales license authorizes the licensee to sell at retail malt beverages in the original package on the licensed premises. Any person licensed pursuant to this section may also sell malt beverage at retail between the hours of 6:00 a.m. on Sunday and 1:30 a.m. on Monday.

Sec. 10-121. Manufacturer's license for wine or brandy.

- ○ ○ ○ ○ (a) A license to manufacturer wine or brandy authorizes a person to manufacture, in quantities not to exceed five hundred thousand gallons, not in excess of eighteen percent of alcohol by weight for wine, or not in excess of thirty-four percent of alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey, and vegetables produced or grown in the state of Missouri, exclusive of sugar, water and spirits.

(b) A manufacturer licensed under this section may use in any calendar year such wine and brandy-making material produced or grown outside the state of Missouri in a quantity not exceeding fifteen percent of the manufacturer's wine entered into fermentation in the prior calendar year.

(c) A manufacturer licensed under this section may offer samples of wine, may sell wine and brandy in its original package directly to consumers at the winery, and may open wine so purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and midnight and from 6:00 a.m. on Sunday to 1:30 a.m. on Monday..

Sec. 10-122. Manufacturer's license for manufacture of alcoholic beverages of all kinds.

A manufacturer's license for manufacture of alcoholic beverages of all kinds authorizes the licensee to manufacture, distill or blend alcoholic beverages of all kinds. A distiller or wine manufacturer may apply for and the director may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery or wine manufacturing premise and may remain open between the hours of 6:00 a.m. and 1:30 a.m. Monday through Saturday and between the hours of 6:00 a.m. on Sunday and 1:30 a.m. on Monday..

Sec. 10-123. Manufacturer's license for manufacture of alcoholic beverages containing alcohol not in excess of 22 percent by weight.

A manufacturer's license for manufacture of alcoholic beverages containing alcohol not in excess of 22 percent by weight authorizes the licensee to manufacture, distill or blend alcoholic beverages containing alcohol not in excess of 22 percent by weight. A distiller or wine manufacturer may apply for and the director may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the

distillery or wine manufacturing premise and may remain open between the hours of 6:00 a.m. and 1:30 a.m. Monday through Saturday and between the hours of 6:00 a.m. on Sunday and 1:30 a.m. on Monday..

Sec. 10-134. Downtown economic entertainment district.

- ○ ○ ○ ○ (a) *Purpose.* This section permits the director to issue an annual liquor license for the sale and consumption 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 until 3:00 a.m. on Monday through Saturday and from 6:00 a.m. on Sunday to 1:30 a.m. on Monday. to a person acting on behalf of or designated by a promotional association, who possesses the qualifications required by this chapter.

(b) *Definitions.*

- (1) *Downtown economic entertainment district* means the area located in the City's "central business district," which is the historic core locally known as the City's downtown area, that contains a combination of entertainment venues, bars, nightclubs, and restaurants, and that is designated as a redevelopment area by the governing body of the city under the state downtown and rural economic stimulus act.
- (2) *Central business district* for this chapter means the area bounded by the Missouri River on the north, the Linwood Boulevard on the south, Cleveland on the east and Broadway, along the Heart of America Bridge to the Missouri River on the west.
- (3) *Common area* means any area designated as a common area in a development plan for the downtown economic entertainment district approved by the governing body of the city, any area of a public right-of-way that is adjacent to or within the downtown economic entertainment district when it is closed to vehicular traffic and any other area identified in the development plan where a physical barrier precludes motor vehicle traffic and limits pedestrian accessibility.
- (4) *Portable bar* means any bar, table kiosk, cart, or stand that is not a permanent fixture and can be moved from place to place.
- (5) *Promotional association* means an association incorporated in the state which is organized or authorized by one or more property owners located within the downtown economic entertainment district who own or otherwise control not less than 100,000 square feet of premises designed, constructed, and available for lease for bars, nightclubs, restaurants and other entertainment venues for the purpose of organizing and promoting activities within the downtown economic entertainment district.
 - a. For purposes of determining ownership or control as set forth in this subdivision, the square footage of premises used for residential, office, or retail uses, (other than bars, night clubs, restaurants, and other entertainment venues), parking facilities and hotels within the downtown economic entertainment district shall not be used in the calculation of square footage.

(c) *Designated redevelopment areas.*

- (1) The city's central business district area is hereby designated as the downtown economic entertainment district.

- (2) The following areas are each designated as promotional association sub-zones:
- a. The *Downtown Power and Light sub-zone* bounded by the Missouri River on the north, by I-70 to I-35 at Holmes to I-670 on the south, Troost Avenue on the east and Broadway on the west.
 - b. The *Performing Arts sub-zone* bounded by 9th Street on the north, 18th Street on the south, Broadway on the west, and Troost on the east.
 - c. The *Crossroads sub-zone* bounded by I-70 to I-35 at Holmes to I-670 on the north, Troost Avenue on the east, the KC Terminal Railway tracks on the south, and Broadway on the west.
 - d. The *18th and Vine sub-zone* bounded by Truman Road on the north, Woodland on the east, 19th Street on the south, and Paseo Boulevard on the west.
 - e. *Liberty Union Crown sub-zone* bounded by 27th Street on the south, 20th Street on north, Cherry on the east and Broadway on the west.
 - f. *Historical Union Hill subzone* bounded by Linwood on the south, 27th Street on the north, Cherry Avenue on the east and Broadway on the west.

Additional areas may be designated as common area sub-zones as determined by the Mayor and City Council.

Section 10-135. Promotional association entertainment district special license.

(a) A promotional association entertainment district special license authorizes a promotional association to sell alcoholic beverages by the drink for consumption in the promotional association sub-zone common areas located within the City's "central business district", which is the historic core locally known as the City's downtown area or the downtown economic entertainment district.

(b) Applicants for a promotional association entertainment district special license are exempt from requirements of Section 10-211, 10-212, and 10-214.

(c) Notwithstanding any other provision of this chapter to the contrary, any person acting on behalf of or designated by the a promotional association who possesses the qualifications of this chapter, or who now or hereafter meeting the requirements of and complies with the provisions of this chapter, may apply to the Director for, and the Director may issue, a license to sell intoxicating liquor, by the drink at retail for consumption, dispensed from one or more portable bars within the promotional association sub-zone of the downtown economic_entertainment district until 3:00 a.m. on Monday through Saturday and from 6:00 a.m. on Sunday and 1:30 a.m. on Monday.. The times for selling intoxicating liquor as fixed in section 10-333 and all other laws and regulations of the city relating to the sale of intoxicating liquor by the drink shall apply to each promotional association sub-zone common area licensed under this subsection in the same manner as they apply to establishments licensed under section 10-102. The applicant shall apply for the license on an application approved by the director.

(d) An applicant granted a promotional association entertainment district special license under this

section shall pay a license fee of four hundred and fifty dollars (\$450.00) per year and a one-time application cost of two hundred and fifty dollars (\$250.00).

(e) Each license upon issuance shall be effective for a prescribed period not to exceed one year. The license shall be effective between the hours of 6:00 a.m. on Sunday to 1:30 a.m. on Monday. until 3:00 a.m. Monday through Saturday.

(f) Notwithstanding any other provision of this chapter to the contrary, on such days and such times designated by the promotional association, with notice to the Director, the promotional association may allow persons to leave licensed establishments located within the promotional association sub-zone boundary of the downtown economic entertainment district with an alcoholic beverage and enter upon and consume the alcoholic beverage within other licensed establishments and common areas located in portions of that promotional association designated boundary.

(g) No person shall take any alcoholic beverages outside the boundaries of the downtown economic entertainment district or portions of the downtown economic entertainment district as designated by the promotional association and approved by the Director.

(h) At times when a person is allowed to consume alcoholic beverages dispensed from portable bars and in the common areas of all or any portion of the downtown economic entertainment district designated by each promotional association, the promotional association shall ensure that minors can be easily distinguished from persons of legal age buying alcoholic beverages.

(i) All alcoholic beverages served for consumption in the common areas of promotional association sub-zones of the downtown economic entertainment district shall be served in a plastic container which shall bear the name or logo or other identifying data of the serving establishment. No glass bottles or glass containers are permitted to be used for the service or consumption of alcoholic beverages in the common areas of the entertainment district.

(j) Any violation of chapter 10 that occur within the promotional association sub-zone of the downtown economic entertainment district, during the days, times and locations designated by the promotional association is solely the responsibility of the promotional association designated person, who is in active control of the license.

(k) Promotional association shall furnish satisfactory proof to the Director that the association is incorporated in the State of Missouri.

(l) Before the issuance of a license under the provisions of this section, the promotional association shall furnish to the Director a State of Missouri entertainment district special license.

(m) The promotional association shall obtain all applicable permits and licenses required by City ordinance.

(n) Before a license or permit is issued under the provisions of this chapter, the applicant shall furnish to the Director upon request, approval from the Director of codes administration, fire, health, public works and neighborhood preservation stating that with respect to the application the applicant is in compliance with the respective codes and the zoning ordinance of the City.

Sec. 10-141. Temporary approval of expansion of premises for sidewalk cafés,

parklets and street cafés.

(a) *Temporary approval authorized.* Notwithstanding the requirements of sections 10-161, 10-162, 10-212, 10-214, and 10-312, the director is authorized to approve a temporary expansion of licensed premises for applicants issued temporary permits to operate sidewalk cafés, parklets and street cafés to allow said businesses to expand seating capacity in unused parking spaces in the city right-of-way pursuant to the following conditions:

- (1) The licensee has an active sales-by-drink license as issued by the director.
- (2) The licensee has been issued a temporary permit for sidewalk cafés, parklets and street cafés by the director of public works pursuant to section 64-172.
- (3) The licensee is in compliance with all other requirements of this chapter.

(b) *Approval process.* Upon receiving an approved temporary permit for sidewalk cafés, parklets and street cafés pursuant to section 64-172 from the director of public works, the director shall verify that the licensee conforms to the requirements in subsection (a) of this section. If the applicant is in compliance, the director shall approve a temporary expansion of licensed premises and immediately notify the licensee that it has been approved.

(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 temporarily expanded premises as authorized by the director of public works.

(d) *Expiration.* The temporary expansion of licensed premises shall expire with the temporary permit for sidewalk cafés, parklets or street cafés on December 31, 2021.

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

Sec. 10-142. Temporary approval of expansion of premises for parking lots.

(a) *Temporary approval authorized.* Notwithstanding the requirements of sections 10-161, 10-162, 10-212, 10-214, and 10-312, the director is authorized to approve a temporary 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 outdoor seating requirements contained in Committee Substitute for Ordinance No. 200377.
- (3) 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 is in compliance, the director shall approve a temporary

expansion of licensed premises and immediately notify the licensee that it has been approved.

(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 temporarily expanded premises as authorized by the director of city planning and development.

(d) *Expiration.* The temporary expansion of the licensed premises shall expire on December 31, 2021.

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

Sec. 10-333. Hours, days of sale for all retail licensees.

(a) *Hours, days of sales.* No retail licensee, nor employee of the licensee, shall sell, give away or otherwise dispose of any alcoholic beverages 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.

(b) *Exceptions.*

- (1) A person holding a valid license or permit pursuant to the provisions of sections 10-104, 10-105, 10-106, 10-107, or 10-108 may be open for business in accordance with the provisions of the license or permit.
- (2) When January 1, March 17, July 4 or December 31 falls on a Sunday, and on the Sundays prior to Memorial Day, Labor Day and on the Sunday on which the national championship game of the national football league is played, commonly known as "Super Bowl Sunday," any person having a license to sell alcoholic beverages by the drink may be open for business and sell alcoholic beverages by the drink under the provisions of their current license.

(c) Whenever hours of time are set forth in this chapter, they shall be interpreted to mean clock time which shall be either Central Standard Time or Central Daylight Time, whichever is then being observed.

Sec. 10-337. Package sales licenses; prohibitions and requirements.

o o o o o (a) No package sales licensee, nor employee of the licensee, shall permit any person to consume alcoholic beverages upon the licensed premises, unless such licensee also has a tasting license or sales-by-drink license pursuant to section 10-114 or 10-102.

(b) No package sales licensee without a sales-by-drink or tasting license, nor employee of the licensee, shall sell, dispense or give away any alcoholic beverages upon the licensed premises except in the original package unless:

- (1) *Authorized to sell Growlers.* Any person who is licensed to sell intoxicating liquor in the original package at retail may sell between thirty-two and sixty-four fluid ounces of craft draft beer to customers in a container or growler filled by any employee of the retailer on the premises for consumption off such premises. No vessel or container manufactured for and previously used

to store or transport any product or liquid other than craft beer filled pursuant to this section shall be used as a growler. The only draft beer that can be sold is that which comes from a craft brewery which has an annual production of less than six million (6,000,000) barrels. Any employee of the licensee shall be at least twenty-one years of age to fill containers with draft beer.

(2) *Containers and Labeling for Growlers.* Containers that are filled or refilled of draft beer as outlined in this section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three millimeters in height and not more than twelve characters per inch:

- a. Brand name of the product dispensed;
- b. Name of brewer or bottler;
- c. Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;
- d. Net contents;
- e. Name and address of the business that filled or refilled the container;
- f. Date of fill or refill;
- g. The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

(3) *The Filling of Containers with a Tube.* The filling and refilling of containers by a retailer or its employees shall only occur on demand by a customer and containers shall not be pre-filled by the retailer or its employee.

- a. Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.
- b. A different tube from the container shall be used for each filling or refilling of a container
- c. When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.
- d. After filling or refilling a container, the container shall be sealed.

(c) No malt liquor package sales licensee, nor employee of the licensee, shall possess or permit alcoholic beverages, other than those allowed for sale by the license, upon the licensed premises.

(d) A package sales licensee whose place of business remains open on days or during the hours when the sale of alcoholic beverages is prohibited by section 10-333 shall, during the times as sale is prohibited, segregate alcoholic beverages in a storage space inaccessible to the public, or cover or enclose alcoholic

beverages by means of a slip cover constructed from substantial material and secured in a manner whereby the public shall not have access.

(e) No package sales licensee, nor employee of the licensee, shall sell or give away any drug, 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, provided that this shall not apply to a licensee lawfully doing business as a pharmacy duly licensed under state or federal law or a licensee with an average of 80 percent or more of its total gross receipts from nonalcohol and nondrug sales.

Sec. 10-341. Reserved.

Section 2. That Section 64-172, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 64-172 and replacing said section with a new section of like number and subject matter to read as follows:

Sec. 64-172. Temporary permits for sidewalk cafés, parklets and street cafés.

(a) *Temporary permit authorized.* The director is authorized to issue temporary permits to operate sidewalk cafés, parklets and street cafés to allow businesses to expand seating capacity in unused parking spaces in the city right-of-way pursuant to the following conditions:

- (1) In considering the permit, the reduction in building capacity imposed by then-existing Orders under the Mayor's COVID-19 related State of Emergency shall be considered.
- (2) Access to the temporary areas shall be accessible to all and shall comply with ADA requirements per the 2010 US Department of Justice ADA standards and PROWAG guidelines including access up, down and within the area.
- (3) Existing parking spaces, excluding ADA parking spaces, may be considered for temporary use.
- (4) No permanent barriers shall be required, though temporary barriers shall comply with ADA requirements per the 2010 US Department of Justice ADA standards and PROWAG guidelines and provide for the safety of the citizens.
- (5) The temporary permit shall expire on December 31, 2021.
- (6) Fees for the temporary permit shall be waived.
- (7) Applicants shall follow design guidelines provided by the director.
- (8) Temporary sidewalk cafés, parklets and street cafés shall be subject to inspection once installed.
- (9) A certificate of insurance as required in sections 64-168, 64-170 and 64-171 shall be required for the expanded areas of business.
- (10) Applicants must obtain approval from the board of parks and recreation commissioners if the business is on a parkway or boulevard under jurisdiction of that board.

(b) *Expedited temporary permit processing.* Temporary permits for sidewalk cafés, parklets and street cafés will be added to Compass KC and the processing and approval of applications for temporary permits will be expedited.

Approved as to form and legality:

Emalea Black
Assistant City Attorney