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Title:	Sponsor: Councilmember Darrell Curls Amending Chapter 10, Code of Ordinances, Alcoholic Beverages, by repealing and replacing Sections 10-1, 10-162, and 10-332 for the purpose of revising the City's liquor control code.				
Sponsors:	Darrell Curls				
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7/30/2024	1	Neighborhood Planning and Development Committee	Adv and Do Pass	
7/25/2024	1	Council	referred	

ORDINANCE NO. 240641

Sponsor: Councilmember Darrell Curls

Amending Chapter 10, Code of Ordinances, Alcoholic Beverages, by repealing and replacing Sections 10-1, 10 -162, and 10-332 for the purpose of revising the City's liquor control code.

WHEREAS, on February 8, 2024, the City Council passed Committee Substitute for Ordinance No. 240150, as Amended, which declared a moratorium on the issuance of certain retail liquor licenses and directed the City Manager to review current City Code, regulations, and policies regarding the issuance of certain retail liquor licenses; and

WHEREAS, said ordinance further directed the City Manager to recommend any appropriate changes to City Code, regulations, and policies to Council; and

WHEREAS, the City Council believes adopting the proposed staff recommendations is in the interest of protecting the public safety, health, and welfare of Kansas Citians; 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 10-162, Forms and process, and Section 10-332, Restrictions and prohibited acts by all retail licensees, 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,

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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, 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. 10-162. Forms and process.

(a) Contents. Any person desiring to obtain a license or permit under the terms of this chapter shall make application therefor to the director, in writing. Each question in the application blank shall be considered material to the issuance of the license, and each question in the application shall be answered in full by the applicant. The applicant shall provide:

(1) The name and residential address of the applicant, and, 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. If the application is on behalf of a corporation, the date of incorporation, the state in which incorporated, the amount of paid-in capital, the amount of authorized capital, the names and residential addresses of the officers and directors, the name and address of the registered agent for the corporation and the names and addresses of all stockholders who hold ten percent or more of the capital stock shall be provided. If the application is on behalf of a limited liability company, the date of organization, the state in which organized, a copy of the operating agreement required by the state to qualify as a limited liability company, the amount of paid-in capital, the amount of authorized capital, the names and residential addresses of all the members and the name and address of the registered agent for the company shall be provided.

(2) The place of birth of the applicant, and, if the applicant is a naturalized citizen, the date and place of naturalization.

(3) The names and business addresses of the applicant's employers for a period of five years prior to the application.

(4) A statement of whether or not the applicant has been convicted of a felony.

(5) A description and address of the proposed premises for which a license is sought.

(6) A statement of whether or not the proposed premises are within 300 feet of a school or church.

(7) The class of the license for which application is made.

(8) A statement of whether or not any distiller, wholesaler, winemaker, brewer, or supplier of coin-operated, commercial, manual or mechanical amusement devices, or the employees, officers or agents thereof, has any financial interest in the retail business of the applicant for the sale of alcoholic beverages, or C.O.L., and whether or not the applicant, either directly or

indirectly, will borrow or accept from any person equipment, money, credit or property of any kind, except ordinary commercial credit for liquor sold.

(9) A complete description of the plans, specifications, and fixtures in the applicant's proposed place of business, if the application is for a retail license; provided, however, that this shall apply only when application is for a new location or a change in the plans for specifications within a previously established location.

(10) A statement that the applicant will not violate any of the ordinances of the city, the laws of the state or the laws of the United States in the conduct of the business.

(11) A comprehensive and informative statement, as the director may deem necessary, to disclose the true ownership and management of the business.

(12) A statement from the commissioner of revenue that the applicant has paid all earnings and profits, convention and tourism and occupational license taxes due the city, including all penalties and interest, or does not owe any earnings and profits, convention and tourism and occupational license taxes to the city.

(13) An approval from the directors of city planning and development, fire, and health stating that with respect to the application the applicant is in compliance with the respective codes.

(14) 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 for applications for sales-by-drink, C.O.L. or sales-by-package alcoholic beverage licenses.

(15) An affidavit disclosing the name and residential address of any person(s) who may take part in the management and control of the business, whether directly or indirectly.

(16) Any additional information which the director may reasonably require to be fully informed for consideration of the issuance of a license or permit.

(17) A statement of whether live entertainment shall occur on the premises, and, if so, the type of live entertainment and the frequency of that entertainment.

(b) Fingerprints and photographs. Every applicant for a license under this chapter and every person designated by an applicant as a managing officer for a business licensed under this chapter may be fingerprinted by the director's agents or the city police department and shall furnish to the director two recent photographs, passport size, together with the application. If the applicant is a partnership, each partner that is an individual shall furnish a photograph and may be fingerprinted, as directed in this subsection. If the applicant is a limited liability company, each member that is an individual shall furnish a photograph and may be fingerprinted, as directed in this subsection. If the applicant is a corporation, the director, in their discretion, may make similar requirements of the officers, directors and shareholders holding an interest of ten percent or more in the corporation.

(c) Execution by applicant. Application for a license under this chapter shall be made by the individual who is to be, in fact, actively engaged in the actual control and management of the particular beverage or

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C.O.L. establishment for which the license is sought.

(d) Additional information for caterer's permit. Applications for caterer's permits shall be filed with the director at least five calendar days prior to the scheduled function and the following shall accompany the application:

(1) Description of location, with specific defined areas set forth.

(2) Copies of contracts between the applicant and sponsor of the function, occasion or event and the contract between the applicant and the person controlling the premises upon which the function, occasion or event is to take place.

(3) Any other information pertinent to the application.

(e) Priorities for issuance to new applicants. Priority shall be given to new applicants for licenses under this chapter on the basis of the time the application is made. Any application which is incomplete for a period of 90 days after the date of filing with the director may be disapproved by the director. If an application is complete in all respects except for approval from the directors of the city planning and development, fire, health and neighborhoods departments, then the director may issue a letter notifying the applicant that the issuance of the license or permit will be approved contingent on providing the approvals to die director. The director may withdraw the letter if the director determines that the delay in obtaining the certificates is a direct result of the applicant's action or inaction. An aggrieved applicant may file a written request for a hearing before the board in the manner provided in section 10-62(a) of this chapter.

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

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

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

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

(1) A growler as outlined in section 10-337; or

(2) A rigid, durable, leak-proof, sealable container, that:

a. Does not exceed 128 ounces;

b. Is designed to prevent consumption without removal of the tamperproof cap or seal;

c. Is affixed with a label or a tag that contains the name and address of the business that filled the container, in type not smaller than three millimeters in height and not more

than 12 characters per inch, and states, "THIS BEVERAGE CONTAINS ALCOHOL.";

d. Does not have a lid with sipping holes or openings for straws;

e. Is tamperproof, in that it is either placed in a one-time-use, tamperproof, transparent bag that is securely sealed, or, is sealed with tamperproof tape;

f. Is not mixed, poured or served across the bar by a person 18 to 20 years of age in accordance with sections 10-339 and 10-373; and

g. Is ordered simultaneously with a meal, meaning food that has been prepared on premises.

h. For the purposes of this section, tamperproof means that a lid, cap, or seal visibly demonstrates when a bag or container has been opened.

(3) Nothing in this section shall be construed as permitting the sale of any alcoholic beverage not permitted under the premises license, including the sale of alcoholic beverages that are not in the original package for off-premises consumption by anyone who does not have a sales-by-drink license.

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

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

(f) Unauthorized sale of property. No retail licensee, nor employee of the licensee, shall allow any person to offer for sale or sell any personal property upon the licensed premises unless the sale of the property has been authorized by the licensee or the manager or person in charge of the licensed premises.

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

(1) Fail to immediately prevent or suppress any violent quarrel or disorder, brawl, fight or any other act or conduct prohibited or declared to be unlawful by this chapter.

(2) Allow language, conduct or songs calculated to provoke a breach of the peace, or obscene literature, entertainment or advertising material.

(3) Allow any employee, entertainer or customer to perform a dance of any kind upon a bar, table or any other place used for serving food or beverages.

(4) Allow any person to be unclothed, or in less-than-opaque attire, costume or clothing, so as to expose to view the top of the areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered.

(5) Allow the performance of any acts of sexual conduct, including actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of the female; or any sadomasochistic abuse or acts including animals or latent objects in an act of apparent sexual stimulation or gratification, as the terms are defined in the pornography and related offenses chapter of the Missouri Criminal Code.

(6) Allow the display of films or videotapes showing persons unclothed as described in subsection (g)(4) of this section, or allow the display of pictures, films, videotapes or other material depicting acts prohibited by subsection (g)(5) of this section.

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

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

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

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

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

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

(1) Any type of live entertainment, as defined in Section 10-1, unless the neighbor notification requirement, as outlined in section 10-214, has been met and the application has been approved by the director. Any form of entertainment, live exhibition, performance or dance characterized by exposure of specified anatomical areas as that term is defined in section 80-20, or dance performed by a performer who is nude behind an opaque barrier, shall be prohibited unless the licensed location first complies with the zoning requirements set forth under section 80-156 and the specified entertainment has been approved by the director.

(2) Any type of entertainment unless the application has been approved by the director. The

term "entertainment," as used in this chapter, shall include but shall not be limited to jukeboxes, pool tables, dart boards, video games, pinball machines or any other amusement device operated by the insertion of a coin, disc or other insertion piece.

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

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

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

(3) No dancer shall dance with any customer.

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

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

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

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

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

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

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

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

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

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

the licensed premises.

Approved as to form:

Andrew Bonkowski
Assistant City Attorney