

COUNCIL BILL NO. 2003-033

ORDINANCE NO. 2003-170

AN ORDINANCE amending Chapter 10, Alcoholic Beverages, Article I, General, of the Joplin City Code, by repealing Section 10-2 Sales near hospital, church, school or residence., and enacting a new Section 10-4 Sales near hospital, church, school or residence., and by repealing Section 10-4 Sunday sales of packaged liquor., and enacting a new section 10-4 Sunday sales of packaged liquor.

WHEREAS, on August 28, 2003 certain amendments to Chapter 311 RSMo. became effective; and,

WHEREAS, these amendments deal generally with the location and hours of operation of certain alcoholic beverage establishments; and,

WHEREAS, the Council of the City of Joplin is desirous of further regulating such establishments in the City; and,

WHEREAS, an amendment to the Joplin City Code of Ordinances is necessary to ensure compliance with applicable state statutes and to allow the City of Joplin to continue to regulate such establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That Section 10-2 of the Joplin City Code, Sales near hospital, church, school or residence., is hereby repealed in its entirety, and a new Section 10-2, Sales near hospital, church, school or residence., is enacted in lieu thereof, to read as follows:

" Sec. 10-2. Sales near hospital, church, school or residence.

(a) Sale near hospital, church or school. No license shall be granted authorizing a person to engage in the business of selling, serving or otherwise disposing of any intoxicating liquor for consumption on the premises where sold or served, or to permit the consumption thereof on such premises, within 300 feet of any hospital or church or any public, private or parochial school or any other building regularly used as a place of worship.

(b) Exception for restaurant/bars. Notwithstanding the provisions of subsection (a) of this section, a license may be granted authorizing a person to engage in the business of selling, serving or otherwise disposing of intoxicating liquor for consumption on the premises where sold or served if such person shall operate a restaurant/bar and if such place of business is more than 150 feet from any hospital or church or any public, private or parochial school. As used in this section, the term "restaurant/bar" means any establishment having a restaurant or similar facility on the premises, at least 50 percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises, or which has an annual gross income of at least \$200,000.00 from the sale of prepared meals or food consumed on such premises.

(c) Sale near private residences. No license shall be granted authorizing a person to engage in the business of selling, serving or otherwise disposing of any intoxicating liquor for consumption on the premises where sold or served, or to permit the consumption thereof on such premises, within 150 feet of any private residence not in a business building, unless permission therefor is granted by a two-thirds vote of the city council.

(d) "Licensed place of business" defined. For purposes of this section, the phrase "place of business licensed to sell intoxicating liquor" shall be deemed to include not only businesses operating under a valid license, but also businesses or their assigns which have made application for a license but which application has not been acted upon pending the construction or remodeling of the place or premises where the business will be carried on so that the place or premises shall comply with all required specifications, so long as such business shall have applied for and have been issued a building permit by the building department of the city; provided that, if the application for a license to sell intoxicating liquor shall not have been acted upon within two years, the application shall, for the purposes of this section, be deemed to have been withdrawn.

(e) "Residence" defined. For purposes of this section, the term "residence" shall be deemed to include single-family residences and multifamily uses, but shall not be deemed to include the use of a portion of a building zoned for commercial use which is presently being used as a residence.

(f) "Hospital," "church" and "school" defined. For purposes of this section, the phrase "hospital, church or school" shall be deemed to include the following: A hospital shall be limited to a building at which medical treatment is provided to individuals on an inpatient basis. The term "church" shall mean a building actively used for the conduct of religious worship. The term "school" shall mean a building actively used for the purpose of providing public, private or parochial primary, secondary or higher education.

(g) Measurement of distance. For purposes of this section, the distances referred to in this section shall be measured from the main public entrances of such premises by the most direct walking route.

(h) Temporary closing of business; change of ownership of business. For purposes of this section, the distance requirements stated in this section shall not apply, if an establishment licensed under this section shall temporarily close for the purpose of remodeling or renovation, so long as such remodeling or renovation is completed within two years of the cessation of such business. For the purpose of this section, the distance requirement shall not apply, if a business license pursuant to this section shall be sold, conveyed or leased, so long as the new owner or occupant of the business shall make application within two years of such change of ownership.

(i) Notwithstanding anything contained herein, the term "intoxicating liquor" shall also be deemed to include the term non-intoxicating beer, and alcoholic beverages as defined in section 10-1 of this article."

Section 2. That Section 10-4 Sunday sales of packaged liquor., of the Joplin City Code is hereby repealed in its entirety, and a new Section 10-4, Sunday sales., is enacted in lieu thereof, to read as follows:

“Sec. 10-4. Sunday sales of packaged liquor.

Package Liquor. Notwithstanding the provisions of section 10-3 or any other ordinance to the contrary, any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor in the original package at retail under article II of this chapter may apply for a special license to sell intoxicating liquor in the original package at retail between the hours of 9:00 a.m. and midnight on Sundays. A licensee under this section shall pay to the director of finance an additional fee of \$150.00 a year, payable at the same time and in the same manner as its other license fees.”

Section 3. That any premises within the distances proscribed by section 10-2 of the Joplin City Code having been legally licensed prior to the date of the passage of this ordinance shall remain legally licensed subject to annual licensing requirements and the provisions of 10-2(h) of the Joplin City Code.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 15th
day of September, 2003.

Richard H. Russell, Mayor

ATTEST:

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

Brian W. Head, City Attorney