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Govt. Grnt. \_\_\_\_\_  
Emer. \_\_\_\_\_  
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9 Griggs, Deaver,  
10 Sponsored by: \_\_\_\_\_ Wylie \_\_\_\_\_

12 First Reading: January 8, 2007

Second Reading: January 29, 2007

14 COUNCIL BILL NO. 2007 - 022

GENERAL ORDINANCE NO. 5644

17 AN ORDINANCE

20 AMENDING

Chapter 10, Alcoholic Beverages, Article I, Sections 10-33 and 10-37 and Article II, Section 10-63 to provide for criteria before the issuance of a license to sell liquor in an area generally defined as including and immediately adjacent to the Commercial Street Historic District, for a reduction of required distances between an establishment with a liquor license and churches, parks, schools and other establishments with liquor licenses in the same area. (Staff and Plans and Policies Committee recommend passage).

29  
30 WHEREAS, Commercial Street, created by the Frisco Railroad in the  
31 late 1800's, is a six block, linear National Register Historic District that originally served  
32 as the commercial center for the City of North Springfield and later for Springfield after  
33 the two communities merged but fell into decline beginning in the 1970's without any  
34 real success of a consistent revitalization to date including four buildings with roof  
35 failures; and

37 WHEREAS, it is in the interests of the community to take steps to  
38 revitalize a historic district containing many turn of the century buildings within a  
39 contained area which may continue to create the ambience of that time and to continue  
40 to support upscale loft development with immediate retail services for the occupants;  
41 and

43 WHEREAS, there has been success in preserving historic structures  
44 in the downtown/square area and Walnut Street historic district by allowing live  
45 entertainment and recreational venues which create sufficient cash flow to allow  
46 investment in the structures; and

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48 WHEREAS, on March 6, 2006, City Council adopted a revitalization  
49 strategy for the Commercial Street area which includes taking steps to encourage live  
50 entertainment venues; and

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52 WHEREAS, the Commercial Street historic district and the  
53 immediately adjacent area is a mixed use urban district with schools, churches and  
54 establishments with liquor licenses cooperating and existing in close proximity; and

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56 WHEREAS, the revitalization of the Commercial Street Historic  
57 District and the area immediately adjacent thereto will be assisted by the ability to  
58 locate multiple live entertainment and destination recreational venues in this unique  
59 linear area of historic structures; and

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61 WHEREAS, the creation of a restricted area for a pilot program under  
62 the new State distance statutes will allow the impact to be measured for consideration  
63 in other areas of the City.

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66 NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
67 SPRINGFIELD, MISSOURI, as follows:

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70 Section 1 - That Chapter 10, Alcoholic Beverages, Article I, Section  
71 10-33, Qualifications of licensees is hereby amended by repealing same and enacting  
72 in lieu thereof a new Section 10-33, which new section shall read as follows:

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74 Section 10-33. Qualifications of licensees. No person shall be  
75 granted a license to sell intoxicating liquor unless such person is of good moral  
76 character, nor shall any corporation be granted a license unless the managing officer of  
77 such corporation is of good moral character. No person shall be granted a license or  
78 permit under this article whose license has been previously revoked or who has been  
79 convicted, since the ratification of the 21<sup>st</sup> Amendment to the Constitution of the United  
80 States, of a violation of the provisions of any law applicable to the manufacture or sale  
81 of intoxicating liquor, or who employs in his business as such dealer any person whose  
82 license has been revoked or who has been convicted of violating such law since the  
83 date mentioned in this section. **However, no application for any license to sell**  
84 **intoxicating liquor at retail shall be granted in an area bounded by Washington**  
85 **Avenue to the east, the center line of the right-of-way of Pacific Street to the**  
86 **south, the western edge of a line running north from the intersection of the**  
87 **eastern right-of-way line of Main Street and Pacific Avenue and generally along**  
88 **what would be the western edge of the 500 block of West Commercial Street to**  
89 **where said line intersects the Burlington-Northern railroad right-of-way to the**  
90 **west, and said railroad right-of-way line to the north back to the point of**  
91 **beginning, which area primarily includes the Commercial Street National Register**  
92 **Historic District and the 500 block of west Commercial Street unless and until the**

3 Director of Finance finds that the issuance of such license shall have no adverse  
4 impact on such National Historic District after review and evaluation of the  
5 criteria set forth in Section 10-37(b) for the reduction of distances between  
6 establishments and schools, parks and churches.

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8 NOTE: Language in **bold** is to be added.

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12 Section 2 - That Chapter 10, Alcoholic Beverages, Article I, Section 10-37  
13 is hereby amended enacting two new Subsections which new Subsections shall read  
14 as follows:

15 "Section 10-37. Premises near schools, parks or churches.

16  
17 **A.** No license shall be granted under this article for the sale of intoxicating liquor  
18 within 200 feet of any school, park, church or other building regularly used as a place of  
19 religious worship, unless the applicant therefore shall first obtain the consent in writing  
20 of the majority of the board of directors of such school, or the consent in writing of the  
21 majority of the park board of such park, or the consent in writing of the majority of the  
22 managing board of such church or place of worship. The distance required by this  
23 section to issue a liquor license shall be reduced to 100 feet, which shall be measured  
24 from the applicant's property to the school, park, church or other building regularly used  
25 for religious worship if the use is for a restaurant as defined by section 10-61 and the  
26 applicant's property is located in the area bounded by Mill Street, Jefferson Avenue,  
27 Pershing Street and Campbell Avenue.

28  
29 **B.** An exception to the 200 foot distance established in Subsection A  
30 hereof may be granted by the Director of Finance down to a distance of 100 feet  
31 for the granting of a license for establishments within an area bounded by  
32 Washington Avenue to the east, the center line of the right-of-way of Pacific  
33 Street to the south the western edge of a line running north from the eastern  
34 right-of-way line of Main Street where said Street intersects Pacific Street and  
35 generally along what would be the western edge of the 500 block of West  
36 Commercial Street to where said line intersects the Burlington-Northern railroad  
37 right-of-way to the west, and said railroad right-of-way line to the north which  
38 area primarily includes the Commercial Street National Register Historic District  
and the 500 block of west Commercial Street provided that the Director of  
Finance finds that issuance of the license shall have no adverse impacts on the  
National Historic District after review and evaluation of the following criteria:

1. **Calls for police service and enforcement actions to any establishment owned or operated by the applicant or other entities in which the applicant has an ownership interest have not been any more numerous than the average calls for a similar establishment in the past twelve months within the City of Springfield, Missouri; and**

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2. **Violations of any liquor law or ordinance by the applicant in any establishment operated or owned by the applicant or other entities in which the applicant has an ownership interest; and**
  3. **Calls for service through the City's Public Information Office and enforcement actions related to any establishment owned or operated by the applicant or other entities in which the applicant has an ownership interest have not been any more numerous than the average calls for a similar establishment in the past twelve months within the City of Springfield, Missouri; and**
  4. **Public infrastructure and services in the historic district and area within a ten block radius in any direction is sufficient to handle increased traffic, parking, sewerage, water, other utilities or other needs such as police and fire services of the establishment when considering the total occupancy allowed within the historic district for all businesses and uses; and**
  5. **A feasible plan for providing parking and security for patrons is presented and approved by the Director of Public Works and Chief of Police for applications for establishments with an occupancy potential of more than two hundred and fifty (250); and**
  6. **The applicant agrees to be bound by the Hospitality Best Practices adopted by the Hospitality Resource Panel now in existence or another group or agency approved by Council to develop such practices and as those practices are amended from time to time; and**
  7. **The applicant is current in all state, county, city and community improvement or other special district taxes or assessment; and**
  8. **The granting of the application will not result in more than a maximum of 5,000 occupants in establishments that sell liquor within the area described herein; and**
  9. **The Director of Planning and Development, with input from the Urban Districts Alliance and Commercial Club, determines that the location of the establishment is consistent with the Commercial Street Historic District Strategy for Success on file in the Office of the City Clerk; and**
  10. **The applicant has not violated any city or state laws in the operation of any establishment with a liquor license.**

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**C. Provided further, that Council may consider a reduction of the distance requirements set out in Subsection A and B for the area described in Subsection B hereof and grant such reduction of the distance requirements by Resolution to a distance down to and including zero feet in its discretion following notice and a hearing as required by Section 311.080, RSMo as amended in 2005, and as amended from time to time, if the Director of Finance has made a finding that no adverse impact on the National Historic District will take place based on his or her review and evaluation of the criteria set forth in Subsection B.**

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185 D. The applicant for a license to be issued under Subsections B and C  
186 hereof shall pay an initial nonrefundable application fee of \$250.00 in addition to  
187 any other fees or costs associated with the application for operation of the  
188 business and the applicable renewal fee as set out in the City's Annual Fee Study  
189 upon applying for a renewal of the license. The license granted under  
190 Subsections B and C shall be valid from the date granted until January 1<sup>st</sup> of the  
191 following calendar year, and may be renewed by the Director of Finance on an  
192 annual basis thereafter for as long as the applicant/licensee or the operation of  
193 the establishment remains in compliance with all the criteria listed herein  
194 including but not limited to the best practices in subsection (6) hereof. Should  
195 the applicant or licensee violate, or come out of compliance with, any criteria  
196 listed herein or other city code or state law, a hearing shall be held in accordance  
197 with this Article for either the revocation of the license or denial of the renewal of  
198 the license to the distance requirements. Upon a finding that the applicant has  
199 failed to remain in compliance with any requirement of this Section, the license  
200 shall either be deemed null and void, or not renewed, and the liquor license of  
201 such establishment and applicant shall be surrendered and the applicant or  
202 licensee shall cease the sale of intoxicating liquor at the location for which the  
203 license was granted.  
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206 NOTE: Language appearing in **bold** is to be added.  
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209 Section 3 – That Chapter 10, Alcoholic Beverages, Article II, Section 10-  
210 63(a) is hereby amended by repealing same and enacting in lieu thereof a new Section  
211 10-63(a) which new section shall read as follows:  
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213 Section 10-63. Minimum distance between licensed premises.  
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- 215 (a) The director of finance shall determine whether the proposed  
216 premises for which the application for a liquor license has been made  
217 is within 200 feet of the premises for which a liquor license has been  
218 approved **and whether or not the premises is within an area**  
219 **bounded by Washington Avenue to the east, the center line of the**  
220 **right-of-way of Pacific Street to the south, the western edge of a**  
221 **line running north from the eastern right-of-way line of Main**  
222 **Street where said Street intersects Pacific Street and generally**  
223 **along what would be the western edge of the 500 block of West**  
224 **Commercial Street to where said line intersects the Burlington-**  
225 **Northern railroad right-of-way to the west, and said railroad right-**  
226 **of-way line to the north, which area primarily includes the**  
227 **Commercial Street National Register Historic District and the 500**  
228 **block of west Commercial Street.** If the director determines that the  
229 proposed premises is within 200 feet of a licensed premises as

measured in accordance with section 10-64, **and outside the boundary of the area defined herein**, the director shall not issue a liquor license to the applicant.

NOTE: Language appearing in **bold** is to be added.

Section 4 - Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 5 - This ordinance shall be in full force and effect from and after passage.

Passed at meeting: January 29, 2007

Thomas Carlson  
Mayor

Attest: Brenda M. Galt, City Clerk

Filed as Ordinance: January 29, 2007

Approved as to form: [Signature], <sup>Asst.</sup> City Attorney

Approved for Council action: [Signature], <sup>Asst.</sup> City Manager

Affected Agency Notified: Yes  
Emergency Required: No  
Budget Adjust. Required: No  
Board Rec. Required: No  
Public Hearing: No  
Sponsor:  
Date: January 2, 2007

### EXPLANATION TO COUNCIL BILL NO. 2007-

**ORIGINATING DEPARTMENT:** Planning and Development

**PURPOSE:** To adopt an ordinance amending Chapter 10, Alcoholic Beverages, Article I, Section 10-37 and Article II, Section 10-63 to provide for a reduction of distances between an establishment with a liquor license and churches, schools and other establishments with liquor licenses in an area including and immediately adjacent to the Commercial Street Historic District. (The Plans and Policies Committee and staff recommend approval).

**BACKGROUND INFORMATION:** City Council accepted the *Commercial Street Historic District Strategy for Success* on February 6, 2006. This planning document proposed a revitalization strategy that generally follows the successful model that has brought about the on-going revitalization of downtown. The strategy focuses on promoting live music and entertainment options as a catalyst for redevelopment. The existing 200-foot distance requirement between establishments with a liquor license and churches, schools and other establishments with liquor licenses is making it difficult to place prospective venues in ideal locations and carry out the revitalization.

The proposed ordinance will create a more effective way to deal with establishments' impacts on the area using Hospitality Resource Panel (HRP) best practices as a guide and the City review criteria. This ordinance will apply to the six-block area on Commercial Street from the 500 block east to the 500 block west Commercial.

The concept of the proposed ordinance has been presented to the Commercial Club board, Urban Districts Alliance board, Hospitality Resource Panel, Midtown Neighborhood Association, and Woodland Heights Neighborhood Association, and all groups were given an opportunity to comment and supported the proposal.

**STAFF COMMENTS:** The 200-foot requirement has outgrown its original purpose to prevent "skid-row" effects and is no longer compatible with the dense, mixed-use development encouraged in center city zoning or with the character of the Commercial Street Historic District. Arbitrary distances do not measure the impacts on the surrounding neighborhood and residents. The proposed ordinance will eliminate the distance requirement between liquor establishments and reduce the distance between a church, school, or park to 100 feet in accordance with the State of Missouri law Section 311.080. The proposed ordinance also allows the distance between a liquor establishments and a church, school, or park to be reduced to zero feet upon approval by City Council. The ordinance outlines

specific impact based criteria for issuing a license within the defined area for Commercial Street. An annual review would be conducted prior to renewal of the license for compliance with the criteria within the proposed ordinance. The proposed ordinance will allow for continued implementation of the *Commercial Street Historic District Strategy for Success*.

**RECOMMENDATION:**

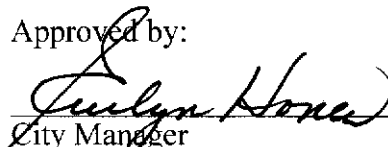
The Plans and Policies Committee met on Friday, January 5, 2007, and recommended approval by a unanimous vote.

Staff recommends approval.

Submitted by:

  
Planning and Development

Approved by:

  
City Manager  
