

CHAPTER 605: LICENSES AND OCCUPATIONAL TAXES

ARTICLE I. CITY LICENSES

SECTION 605.010: LICENSE REQUIRED

A. No person, company, association or corporation shall, within the City of Greenwood, Missouri, conduct, exercise, carry on, deal in or engage in any occupation, trade, business or avocation or deal in, sell or keep any article, things or places for profit without first taking out a City license therefor.

B. Notwithstanding any provision of this Article to the contrary, a temporary City license may be issued for temporary business stands for four (4) days and all days must be consecutive in any six (6) month period at only one (1) location. *"Temporary business stands"* mean any booth, tent, street stand, or other temporary place in which the activities described in Subsection (A) occur. Written approval from the property owner for the use of the property must accompany the application, and within twenty-four (24) hours after ending the use of the temporary business stand, the licensee shall remove all trash, refuse, rubbish, signs and unsold merchandise from the stand location. Notwithstanding Section 605.020, the fee for a temporary City license shall be fifteen dollars (\$15.00). (Ord. No. 4.001 §1, 9-14-81; Ord. No. 95-09-113 §605.010, 9-11-95; Ord. No. 97-08-04-01 §1, 8-4-97; Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2008-08-11-01 §1, 8-11-08)

SECTION 605.011: TEMPORARY BUSINESS STANDS

Temporary Business Stands. A temporary license may be issued for temporary business stands for four (4) consecutive days within a six (6) month period at only one (1) location. *"Temporary business stand"* means any booth, tent, street stand, or other temporary place in which the activities described above occur. Written approval from the property owner for the use of the property must accompany the application, and within twenty-four (24) hours after ending the use of the temporary business stand, the licensee shall remove all trash, refuse, rubbish, signs and unsold merchandise from the stand location. Notwithstanding Section 605.045, the fee for a temporary City license shall be fifteen dollars (\$15.00). (Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.012: EXEMPTED OCCUPATIONS

A. In accordance with Section 71.620.1, RSMo., as amended, the following professional occupations are exempt from the licensing and fee provisions of this Chapter:

1. Minister of the gospel
2. Duly accredited Christian Scientist practitioner
3. Teacher
4. Professor in college
5. Priest
6. Lawyer

7. Certified public accountant
8. Dentist
9. Chiropractor
10. Optometrist
11. Chiropodist
12. Physician or surgeon

B. In accordance with Section 71.630, RSMo., as amended, farmers and their employees and all other producers and their employees are exempt from the licensing and fee provisions of this Chapter when selling agricultural products and produce from a wagon, cart or vehicle that such farmers and producers have themselves raised or produced.

C. In accordance with Section 71.620.2, RSMo., as amended, the following professional occupations are exempt from the licensing and fee provisions of this Chapter unless that person maintains a business office within the City of Greenwood, Missouri:

1. Architect
2. Professional engineer
3. Land surveyor
4. Auctioneer
5. Real estate broker or real estate salesperson
6. Insurance agent or broker

D. In accordance with Section 340.214, RSMo., as amended, veterinarians (for veterinary services only) are exempt from the licensing and fee provisions of this Chapter. (Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.013: MISSOURI RETAIL SALES LICENSE REQUIRED PRIOR TO ISSUANCE OF LICENSE

A. Every applicant for an occupation license relating to a business which involves the retail sale of goods shall exhibit a valid and current retail sales license issued by the State of Missouri.

B. The revocation of such retail sales license by the Director of Revenue of the State of Missouri shall render the occupation license issued hereunder null and void, provided however, that the Director of Revenue of the State of Missouri or any duly authorized representative must inform the City Clerk in writing of such revocation of a retailer's license before such City license shall be revoked.

C. The applicant may obtain a City occupation license upon presentment of proof of issuance or reissuance of a Missouri retail sales license in effect at the time of revocation under the provisions of Subsection (B) above, upon the payment of any occupational license fees due plus a reinstatement

fee of five dollars (\$5.00).

D. Pursuant to Section 144.083.4, RSMo., the possession of a statement from the Missouri Department of Revenue stating no tax is due under Sections 143.191 to 143.265 or Sections 144.010 to 144.510, RSMo., shall also be a prerequisite to the issuance or renewal of a City business license required for conducting any business where goods are sold at retail. The statement of no tax due shall be dated no longer than ninety (90) days before the date of submission for application or renewal of the City license. (Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.020: LICENSE FEE

There is hereby levied a license fee to be charged and collected on all businesses, occupations, professions, trades and avocations; on all persons, companies, associations and corporations who shall deal in or sell any articles or things and any business or trade which operates for-profit, whether operated by a person, company, association or corporation, until said person, firm or corporation shall obtain an occupational license and pay therefore the sum of fifty dollars (\$50.00). (Ord. No. 4.001 §2, 9-14-81; Ord. No. 95-09-113 §605.020, 9-11-95; Ord. No. 97-08-04-01 §2, 8-4-97; Ord. No. 2002-11-12-04 §1, 11-12-02; Ord. No. 2006-05-08-03 §1, 5-8-06)

SECTION 605.025: LICENSURE REQUIREMENTS

No license shall be issued, renewed or reinstated for any business, occupation, profession, trade or avocation whose lands, premises, buildings or structures in which they operate or maintain stores of goods, supplies or equipment are not in conformance with all applicable zoning and building code requirements. No license shall be issued, renewed or reinstated for any occupation, profession, trade, business or avocation not possessing any and all licenses, certifications, permits or other applicable authorization required by Federal, State or County laws or regulations. Each applicant for a license shall complete a form as prescribed by the City Clerk which shall contain at a minimum: the name, address and phone number of the business; the name, address and phone number of the owner(s); the name, address and phone number of the owner's agent who shall be a resident of Jackson or Cass County, if the owner is not a resident of Jackson or Cass County or if the owner is a corporation, limited liability company, partnership, limited partnership, limited liability partnership or non-profit organization; the nature of or type of business being conducted; a certification that, to the best of the applicant's knowledge, the business possesses all licenses, certifications, permits or other applicable authorizations required by Federal, State or County laws or regulations; and a statement requiring the owner or owner's agent to notify the City in writing of any change in the location, ownership, name or legal status of the business within ten (10) days of change. (Ord. No. 2006-05-08-03 §1, 5-8-06)

SECTION 605.030: FEE TO BE PAID BEFORE ISSUANCE OF LICENSE

It shall be the duty of the City Collector or other proper officer to collect the license fee herein provided for, and the City Collector shall issue all licenses which shall be signed by the City Clerk and no license shall be issued until the fee for same as herein provided is paid. (Ord. No. 4.001 §3, 9-14-81; Ord. No. 95-09-113 §605.030, 9-11-95; Ord. No. 97-08-04-01 §3, 8-4-97; Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.040: VALIDITY

All licenses shall be valid from the time of issuance to March thirty-first (31st) of the same year. Nothing in this Article contained shall be construed as authorizing any persons to sell intoxicating liquors, maintain a public nuisance or otherwise violate other Statutes or ordinances by virtue of said license. (Ord. No. 4.001 §4, 9-14-81; Ord. No. 95-09-113 §605.040, 9-11-95; Ord. No. 97-08-04-01 §4, 8-4-97; Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2011-12-27-02 §1, 12-27-11)

SECTION 605.041: LICENSE NON-TRANSFERABLE

There shall be no transfers of license from one person to another except that where a business, including stock, if any, is sold and the new owner continues the business at the same location and under the same name, the license shall continue to expiration. (Ord. No. 2006-05-08-03 §1, 5-8-06)

SECTION 605.045: EFFECTIVE DATE AND TERM OF LICENSE

This Article shall become effective on May 8, 2006, and all licenses shall be granted concurrent to the passage of this Article and subject to renewal on each succeeding year. No license shall be granted for less than a one (1) year period. (Ord. No. 97-08-04-01 §5, 8-4-97; Ord. No. 2006-05-08-03 §1, 5-8-06)

SECTION 605.046: DENIAL OR REVOCATION OF LICENSE

A. A license issued under the provisions of this Chapter may be revoked, suspended or denied by the City Clerk or by the Board of Aldermen (after notice and hearing before the Board of Aldermen) for any of the following reasons:

1. Any fraud, misrepresentation or false statement contained in the application for license.
2. Non-compliance with all applicable City zoning and building code requirements.
3. Any violation of the terms or provisions of this Chapter.
4. Conduct of the business licensed under the provisions of this Chapter in an unlawful manner or in such manner as to constitute a breach of the peace or detrimental to the public health, safety or welfare.
5. Failure or refusal to comply with the requirements of a provisional order or any other order issued by City Clerk or Board of Aldermen.
6. Failure to obtain any and all licenses, certifications, permits or other applicable authorization required by Federal, State, County, or City laws or regulations, including, but not limited to, a Missouri retail sales license.
7. Failure to pay City taxes or user fees.

B. Notice of a finding of violation shall be given as set forth in Section 605.047. The owner or agent of any occupation, trade, business or profession shall be given an opportunity to correct the condition(s) in violation, request a public hearing before the Board of Aldermen or cease operation

of the business. If the owner or agent requests a hearing, the hearing shall be conducted as set forth in Section 605.048. Upon conclusion of the public hearing, the Board of Aldermen shall approve, revoke, deny or suspend the business license.

C. Upon revocation, denial or suspension of a business license no refund of any portion of the license fee shall be made to the licensee and the licensee shall immediately cease all business operations at each place found to be in violation of the provisions of this Chapter or any other law or Chapter.

D. As stated in Section 314.200, RSMo., the City shall not deny a license to an applicant primarily upon the basis that a felony or misdemeanor conviction of the applicant precludes the applicant from demonstrating good moral character, where the conviction resulted in the applicant's incarceration and the applicant has been released by pardon, parole or otherwise from such incarceration, or resulted in the applicant being placed on probation and there is no evidence the applicant has violated the conditions of that probation. The City may consider the conviction as some evidence of an absence of good moral character, but shall also consider the nature of the crime committed in relation to the license which the applicant seeks, the date of the conviction, the conduct of the applicant since the date of the conviction and other evidence as to the applicant's character.

E. Any person violating any order of the City Clerk or Board of Aldermen dealing with the suspension, denial or revocation of any license made pursuant to this Section continuing to engage in any business, profession or occupation during the term of such suspension or revocation shall be subject to the violation and penalty provision of Section 100.050. (Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.047: FINDING OF VIOLATION–NOTICE

A. Upon findings of a violation(s), the City Clerk shall serve notice on the owner or agent of any occupation, trade, business or profession. The notice shall state the condition(s) which is (are) in violation of this Chapter. The notice shall inform the owner, agent, individual, firm, corporation, business, trade or company that:

1. He/she or they shall have ten (10) days from the date of receipt of the notice to correct the condition(s) in violation of this Chapter; or
2. He/she or they have ten (10) days from the date of receipt of the notice to request a hearing before the Board of Aldermen;
3. Failure to correct the condition(s), request a hearing within the time frame allowed or cease operation may result in Municipal Court prosecution;
4. The owner, occupant or agent in charge of the property should contact the City Clerk if there are any questions regarding the order.

B. Service shall be by certified mail, return receipt requested or personal service to the address on the license. Notice shall be deemed served upon the date of acceptance of personal service or three (3) business days following the mailing of certified mail. Notice shall also be deemed served upon posting of said notice at the address on the license if mailed notice is deemed undeliverable by the United States Postal Service or upon refusal of personal service. (Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.048: HEARING

If a hearing is requested within the ten (10) day period as provided in Section 605.047, such request shall be made in writing to the Board of Aldermen. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the City Clerk before the Board of Aldermen. The hearing shall be held by the Board of Aldermen as soon as possible after the filing of the request therefore and the person shall be advised by the City of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the Board of Aldermen. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Board of Aldermen shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter. (Ord. No. 2006-05-08-03 §1, 5-8-06; Ord. No. 2011-10-25-09 §1, 10-25-11)

SECTION 605.049: REINSTATEMENT OF REVOKED LICENSE

A license revoked for any violation of the terms of this Article shall be reinstated only upon correction of all stated violations, payment of all fines and costs from said violations and payment of a fifty dollar (\$50.00) reinstatement fee. (Ord. No. 2006-05-08-03 §1, 5-8-06)

SECTION 605.050: VIOLATION AND PENALTY

Any individual, firm or corporation or concern whatever is liable to pay a license fee under the terms of this Article, who or which shall do business without first having obtained said license or following revocation of said license, shall upon conviction be deemed guilty of a misdemeanor and each day said business is carried on or conducted without having obtained said license shall be deemed a separate offense and upon conviction thereof shall be fined a sum not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00). (Ord. No. 97-08-04-01 §6, 8-4-97; Ord. No. 2006-05-08-03 §1, 5-8-06)

ARTICLE II. ELECTRIC LIGHT AND POWER COMPANIES

SECTION 605.060: OCCUPATION TAX—PERCENTAGE—TAX TO BE PAID MONTHLY—FILING OF STATEMENT

A. Every light and power company, and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing any electric plant or system generating, manufacturing, selling, distributing or transmitting electric energy and power, shall, in addition to all other taxes, payments or fees now or hereafter required by law or ordinance, pay to the City of Greenwood, Missouri, an occupation tax in an amount equal to five percent (5%) of the gross receipts derived from the sale of electric energy within the present or future limits of the City of Greenwood, Missouri, during the period of such occupation.

B. The said occupation tax shall be based upon the sale of electric energy for domestic and commercial consumption and not for resale, but not including any revenue for electric service to the City of Greenwood, Missouri.

C. Said light and power company shall pay the occupation tax herein provided monthly, and said tax shall be computed upon the basis of gross revenue from the first (1st) day through the last day of each month beginning on August 4, 1977. The said company shall calculate the tax due the said City monthly, and within sixty (60) days after the last day of each month file a statement notifying said City of the amount of gross revenue subject to the payment of the said tax which was received during the month, and at the time of filing such statement shall pay to the said City the tax due. (Ord. No. 4.003 §§1-3, 8-1-77)

ARTICLE III. GAS SERVICE COMPANY

SECTION 605.070: MAINTAINING BUSINESS LICENSE TAX

The City of Greenwood, in order to maintain its sources of revenue at its historical level, hereby determines to maintain the five percent (5%) gross receipt tax on the sales of Gas within the City by the KPL Gas Service Company. (Ord. No. 5.403 §1, 12-18-86)

ARTICLE IV. PENALTY

SECTION 605.080: PENALTY

Any person violating any of the provisions of this Chapter shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than five hundred dollars (\$500.00). (Ord. No. 94-11-02 §605.060, 11-7-94)

ARTICLE V. USE OF FIREWORKS

SECTION 605.090: DEFINITION

As used in this Article, the following terms shall have the prescribed meaning:

CONSUMER FIREWORKS: Explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as Class C common fireworks by regulation of the United States Department of Transportation.

DISPLAY FIREWORKS: Explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as Class B display fireworks by regulation of the United States Department of Transportation.

PROXIMATE FIREWORKS: A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration or detonation, as defined by the most current

edition of the American Pyrotechnics Association (APA), Standard 87-1, Section 3.8, specific requirements for theatrical pyrotechnics. (Ord. No. 2006-01-23-02 §1, 1-23-06; Ord. No. 2008-05-27-09 §1, 5-27-08)

SECTION 605.100: PERMIT FOR PUBLIC DISPLAY OF FIREWORKS

Notwithstanding any other provision in this Article to the contrary, the Director of Building and Zoning or his or her designee, upon recommendation from the appropriate fire protection service provider, may issue a permit for a maximum period of twenty-four (24) consecutive hours for the possession and use of fireworks, including display fireworks and proximate fireworks, for the purpose of organized public fireworks exhibitions, including on public property, provided that the permit holder takes adequate safety precautions to protect the public from injury or property damage and provided that the exhibition is conducted by skilled, qualified persons. (Ord. No. 2006-01-23-02 §1, 1-23-06; Ord. No. 2007-12-10-06 §1, 12-10-07; Ord. No. 2008-05-27-09 §2, 5-27-09)

SECTION 605.110: SAFETY REQUIREMENTS

A. No permit shall be issued for any location where paints, oils or varnishes are manufactured or kept for use or sale nor where rosin, turpentine, gasoline or other similar inflammable substances or any substance which may generate inflammable vapors is used, stored or offered for sale or where the Fire Inspector shall determine that any condition exists which makes the storage or sale of fireworks at such location unusually hazardous.

B. No fireworks shall be stored, kept or discharged within one hundred (100) feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.

C. Each permittee shall keep and maintain at least two (2), five (5) pounds each, A.B.C. dry chemical fire extinguishers with a 2-A rating or over, mounted in plain view, per location, near a path of travel.

D. The smoking or carrying of a lighted pipe, cigar, cigarette or tobacco in any form is prohibited in all places where fireworks are displayed within fifty (50) feet thereof.

E. No person shall ignite or discharge any fireworks within or throw the same from a motor vehicle while within; nor shall any person place or throw any ignited articles of fireworks into or at a motor vehicle.

F. No person shall ignite or discharge any fireworks on public property, including streets and parks, unless pursuant to a permit issued under Section 605.100.

G. It shall be unlawful to discharge fireworks from the roof or from the inside of any building.

H. No person shall knowingly ignite or discharge any fireworks at or onto the property of another without first obtaining consent of the owner, lessee or occupant of such property.

I. Reserved.

J. Reserved. (Ord. No. 2006-01-23-02 §1, 1-23-06; Ord. No. 2007-12-10-06 §§2–3, 12-10-07; Ord. No. 2008-05-27-09 §3, 5-27-08)

SECTION 605.115: CONSUMER FIREWORKS

A. The possession, storage, handling and use of consumer fireworks shall be permitted within the corporate limits of the City of Greenwood, Missouri, except that it shall be unlawful for any person to possess, store, handle or use, within the corporate limits of the City, the following consumer fireworks:

1. Rockets on a stick;
2. Missiles with fins or rudders for the purpose of achieving aerodynamic flight; and
3. Roman candles with or without spikes, identified by the word "Candle" on the label with the following wording on the caution label: "WARNING SHOOTS FLAMING BALLS" or "WARNING SHOOTS FLAMING BALLS AND REPORTS" and not including California candles or illuminating torch with the following wording on the caution label: "CAUTION EMITS SHOWERS OF SPARKS" and single or multi-shot parachutes, with night or daytime effects.

B. No fireworks of any kind may be sold within the City **except as may otherwise be permitted by the City on City owned property**. The possession or discharge of consumer fireworks is allowed.

C. The use of consumer fireworks pursuant to this Section within the City limits shall only be permitted between the Friday before the Park and Receptions Board's Freedom Celebration (traditionally the last Saturday in June) through and including July fourth (4th). The hours during which consumer fireworks may be discharged are:

1. No earlier than 10:00 A.M.;
2. No later than:
 - a. On a Friday, 11:00 P.M.;
 - b. On a Saturday, Midnight;
 - c. On a Sunday, Monday and Tuesday, **Wednesday and Thursday 10:00 P.M.**;
 - d. On July fourth (4th);
 - (1) If it falls on **Sunday**, Monday, Tuesday, Wednesday or Thursday, 11:00 P.M.;
 - (2) If it falls on a Friday or Saturday, Midnight.

D. It shall be unlawful for any person to throw, use, explode, detonate, aim, point or shoot consumer fireworks in such a manner that after it is ignited, it, or any part thereof, lands on property not owned by the person shooting the fireworks without first obtaining consent of the owner, lessee or occupant of such property.

E. It shall be unlawful for any person to throw, use, explode, detonate, or shoot consumer fireworks within six hundred (600) feet of any church, hospital, mental health facility or school.

F. It shall be unlawful for any person to throw, use, explode, detonate, or shoot consumer fireworks within any structure.

G. No person shall use, explode, detonate or shoot fireworks within, or throw the same from, a motorized vehicle including watercraft or any other means of transportation, nor shall any person place or throw any ignited firework into or at a motorized vehicle including watercraft or any other means of transportation, or at or near any person, group of people or animal.

H. No person shall throw, use, explode, detonate or shoot fireworks within three hundred (300) feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any non-permanent structure where fireworks are stored, sold or offered for sale. (Ord. No. 2008-05-27-09 §4, 5-27-08; Ord. No. 2009-08-10-04 §1, 8-10-09; Ord. No. 2012-06-26-03 (Bill No. 2674) §1, 6-26-12; Ord. No. 2013-6-27-03, 6/27/13; Ord. No. 2015-2887, 4/28/2015)

SECTION 605.120: EXCLUSIONS

Nothing in this Article shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States or of this State or to Peace Officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events. (Ord. No. 2006-01-23-02 §1, 1-23-06)

SECTION 605.130: PENALTIES

Any person, firm or corporation violating the provisions of this Section shall, upon conviction, be adjudged guilty of a misdemeanor and be punished according to Section 100.050 of this Code. Violation of any of the provisions of this Article shall also cause an immediate and automatic revocation of all permits issued pursuant to this Chapter 605. Furthermore, any violation which involves the use of fireworks, other than permissible fireworks, shall cause an automatic forfeiture of that merchandise to the City. (Ord. No. 2006-01-23-02 §1, 1-23-06; Ord. No. 2008-05-27-09 §5, 5-27-08)

CHAPTER 610: VIDEO SERVICES PROVIDERS

SECTION 610.010: RATIFICATION OF EXISTING VIDEO FRANCHISES

A. To the extent permitted by the 2007 Video Services Providers Act, the Board of Aldermen of the City of Greenwood, Missouri, hereby ratifies all existing agreements, franchises, Code provisions and ordinances regulating cable television operators and other video service providers, and imposes a franchise fee of five percent (5%) on the gross revenues of all such providers and further declares that such agreements, franchises and ordinances shall continue in full force and effect until expiration as provided therein or until pre-empted by the issuance of video service authorizations by the Missouri Public Service Commission or otherwise by law, but only to the extent of said pre-emption.

B. It shall be unlawful for any person to provide video services, as defined in Section 610.020, within the City without an agreement, franchise or ordinance approved by the City or a video service authorization issued by the Missouri Public Service Commission. (Ord. No. 2012-11-13-06 §1, 11-13-12)

SECTION 610.020: VIDEO SERVICE REGULATIONS

A. *Definitions.* As used in this Chapter, the following terms shall have the following meanings unless otherwise defined by context:

FRANCHISE AREA: The total geographic area of the City authorized to be served by an incumbent cable television operator or incumbent local exchange carrier or affiliate thereof.

GROSS REVENUES: The total amounts billed to subscribers or received by an entity holding a video service authorization from advertisers for the provision of video services within the City, including:

1. Recurring charges for video service;
2. Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;
3. Rental of set-top boxes and other video service equipment;
4. Service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges;
5. Administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges; and
6. A pro rata portion of all revenue derived, less refunds, rebates or discounts, by a video service provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the City and the denominator is the total number of subscribers reached by such advertising; but gross revenues do not include:
 - a. Discounts, refunds and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;
 - b. Uncollectibles;
 - c. Late payment fees;
 - d. Amounts billed to subscribers to recover taxes, fees or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein;
 - e. Fees or other contributions for PEG or I-net support; or
 - f. Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means.

Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles.

PERSON: An individual, partnership, association, organization, corporation, trust or government entity.

SUBSCRIBER: Any person who receives video services in the franchise area.

VIDEO SERVICE: The provision of video programming provided through wire line facilities, without regard to delivery technology, including Internet protocol technology, whether provided as part of a tier, on demand or a per-channel basis, including cable service as defined by 47 U.S.C. Section 522(6), but excluding video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d) or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail or other services offered over the public Internet.

VIDEO SERVICE AUTHORIZATION: The right of a video service provider or an incumbent cable operator that secures permission from the Missouri Public Service Commission pursuant to Sections 67.2675 to 67.2714, RSMo., to offer video service to subscribers.

VIDEO SERVICE NETWORK: Wire line facilities, or any component thereof, that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "*video service network*" shall include cable television systems.

VIDEO SERVICE PROVIDER OR PROVIDER: Any person authorized to distribute video service through a video service network pursuant to a video service authorization.

VIDEO SERVICE PROVIDER FEE: The fee imposed under Subsection (C) hereof.

B. General Regulations.

1. A video service provider shall provide written notice to the City at least ten (10) days before commencing video service within the City. Such notice shall also include:

- a. The name, address and legal status of the provider;
- b. The name, title, address, telephone number, e-mail address and fax number of individual(s) authorized to serve as the point of contact between the City and the provider so as to make contact possible at any time (i.e., twenty-four (24) hours per day, seven (7) days per week); and
- c. A copy of the provider's video service authorization issued by the Missouri Public Service Commission.

2. A video service provider shall also notify the City, in writing, within thirty (30) days of:

- a. Any changes in the information set forth in or accompanying its notice of commencement of video service; or
- b. Any transfer of ownership or control of the provider's business assets.

3. A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the area in which the group resides. A video service provider shall be governed in this respect by Section 67.2707, RSMo. The City may file a complaint in a court of competent jurisdiction alleging a germane violation of this Subsection, which complaint shall be acted upon in accordance with Section 67.2711, RSMo.

4. A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators.

5. A video service provider shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments ("claims") for damages or equitable relief arising out of:

- a. The construction, maintenance, repair or operation of its video services network;
- b. Copyright infringements; and

c. Failure to secure consents from the owners, authorized distributors or licensees or programs to be delivered by the video service network. Such indemnification shall include, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim prior to the video service provider assuming such defense. The City shall notify the provider of a claim within seven (7) business days of its actual knowledge of the existence of such claim. Once the provider assumes the defense of the claim, the City may at its option continue to participate in the defense at its own expense. This indemnification obligation shall not apply to any claim related to the provision of public, educational or governmental channels or programming or to emergency interrupt service announcements.

C. *Video Service Provider Fee.*

1. Each video service provider shall pay to the City a video service provider fee in the amount of five percent (5%) of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may adjust the video service provider fee as permitted in Section 67.2689, RSMo.

2. A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.

3. The City, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in Section 67.2691, RSMo. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

D. *Customer Service Regulations.*

1. For purposes of this Section, the following terms shall mean:

NORMAL BUSINESS HOURS: Those hours during which most similar businesses in the community are open to serve customers. In all cases the term "*normal business hours*" must include some evening hours at least one (1) night per week or some weekend hours.

NORMAL OPERATING CONDITIONS: Those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the video system.

SERVICE INTERRUPTION: The loss of picture or sound on one (1) or more video channels.

2. All video service providers shall adopt and abide by the following minimum customer service requirements.

a. Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers twenty-four (24) hours a day, seven (7) days a week.

b. Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day.

c. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

d. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

e. Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.

f. Under normal operating conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(1) Standard installations shall be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

(2) Excluding conditions beyond the control of the operator, the video service provider shall begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.

(3) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(4) A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(5) If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time convenient for the customer.

g. Refund checks shall be issued promptly, but no later than either (a) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (b) the return of the equipment supplied by the video service provider if the service is terminated.

h. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

i. Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.

3. As required by Section 67.2692, RSMo., Sections 610.010 et seq., shall be enforced only as follows:

a. Each video service provider shall implement an informal process for handling inquiries from the City and customers concerning billing issues, service issues and other complaints. If an issue is not resolved

through this informal process, the City may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the City and the video service provider.

b. In the case of repeated, willful and material violations of the provisions of this Section by a video service provider, the City may file a complaint on behalf of a resident harmed by such violations with Missouri's Administrative Hearing Commission seeking an order revoking the video service provider's Public Service Commission authorization. The City or a video service provider may appeal any determination made by the Administrative Hearing Commission under this Section to a court of competent jurisdiction, which shall have the power to review the decision de novo. The City shall not file a complaint seeking revocation unless the video service provider has been given sixty (60) days' notice to cure alleged breaches but has failed to do so.

E. *Public, Educational And Government Access Programming.*

1. Each video service provider shall designate the same number of channels for non-commercial public, educational or governmental ("PEG") use as designated by the incumbent cable operator.

2. Any PEG channel that is not substantially utilized by the City may be reclaimed and programmed by the video service provider at the provider's discretion. If the City finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred twenty (120) days. A PEG channel shall be considered "substantially utilized" when forty (40) hours per week are locally programmed on that channel for at least three (3) consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four (4) times during a calendar week.

3. The operation of any PEG access channel and the production of any programming that appears on each such channel shall be the sole responsibility of the City or its duly appointed agent receiving the benefit of such channel and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers. The City must deliver and submit to the video service provider all transmissions of PEG content and programming in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal. Such content and programming must be compatible with the technology or protocol utilized by the video service provider to deliver its video services. The video service provider shall cooperate with the City to allow the City to achieve such compatibility.

4. The City shall make the programming of any PEG access channel available to all video service providers in a non-discriminatory manner. Each video service provider shall be responsible for providing the connectivity to the City's or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one (1) point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable method of connection acceptable to the person providing the interconnect.

5. The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007, shall continue until the date of franchise expiration (ignoring any early termination by virtue of issuance of a video service authorization) or January 1, 2012,

whichever is earlier. Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one (1) incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in Section 67.2703.8, RSMo. The City shall notify each video service provider of the amount of such fee on an annual basis, beginning one (1) year after issuance of the video service authorization.

6. A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis.

F. *Compliance With Other Regulations.* All video service providers shall comply with all other applicable laws and regulations. (Ord. No. 2012-11-13-06 §1, 11-13-12)

CHAPTER 610

PEDDLERS AND SOLICITORS

Section 610.010 DEFINITIONS.

As used in this Chapter the following words have the meaning indicated:

- A. “Peddler” is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A “peddler” does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a “solicitor.”
- B. “Solicitor” is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.
- C. “Canvasser” is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

SECTION 610.020 EXCEPTIONS.

This Chapter shall not apply to:

- A. a federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer;
- B. the sale, or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden produce grown or produced by the person selling the same;
- C. any person, age 16 and under who are residents of the City, participating as a peddler or solicitor in fundraising programs for, or sponsored by, a public or private elementary, junior high, high school, or bona fide children's organization including, without limitation, Boy Scouts, Girl Scouts, or youth sports, arts or similar extracurricular activities.

SECTION 610.030 IDENTIFICATION CARD REQUIRED FOR PEDDLERS AND SOLICITORS, AVAILABLE FOR CANVASSERS.

No person shall act as a peddler or as a solicitor within the City without first obtaining an Identification Card in accordance with this Chapter. A canvasser is not required to have an Identification Card but any canvasser wanting an Identification Card for the purpose of reassuring City residents of the canvasser's good faith shall be issued one upon request. An Identification Card issued under this Chapter is not transferable or assignable.

SECTION 610.040 CARD IN ADDITION TO BUSINESS LICENSE.

The identification cards for peddlers and solicitors required by this Chapter are in addition to and not in lieu of any business license such persons may be required to obtain under the provisions of this Code.

SECTION 610.050 FEE.

The fee for the issuance of each Identification Card shall be:

- A. For a peddler acting on behalf of a merchant whose physical address is within the city.....no fee.
- B. For a peddler acting on behalf of a merchant whose physical address is not within the city.....a fee of \$5.00 per day.
- C. For a solicitor (including a commercial solicitor advertising an event, activity, good or service for purchase at a location away from the residence)..... \$5.00 per day.
- D. For a canvasser requesting an Identification Card.....no fee.

SECTION 610.060 APPLICATION FOR IDENTIFICATION CARD.

Any person or organization (formal or informal) may apply for one or more identification cards by completing an application form at the office of the City Clerk, during regular office hours.

SECTION 610.070 CONTENTS OF APPLICATION.

The applicant (person or organization) shall provide the following information:

- A. Name of applicant.
- B. Number of identification cards required.
- C. The name, physical description and photograph of each person for which a card is requested. In lieu of this information, a driver's license, state identification card, passport, or other government-issued identification card (issued by a government within the United States) containing this information may be provided, and a photocopy taken. If a photograph is not supplied, the City will take an instant photograph of each person for which a card is requested.
- D. The permanent and (if any) local address of the applicant.
- E. The permanent and (if any) local address of each person for whom a card is requested.
- F. A brief description of the proposed activity related to this identification card. (Copies of literature to be distributed may be substituted for this description at the option of the applicant).
- G. Date and place of birth for each person for whom a card is requested and (if available) the social security number of such person.
- H. A list of all infraction, offense, misdemeanor and felony convictions of each person for whom a card is requested for the seven years immediately prior to the application.
- I. The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by each person for whom a card is requested.
- J. If a card is requested for a peddler:
 - 1. The name and permanent address of the business offering the event, activity, well or service (i.e., the peddler's principal).
 - 2. A copy of the principal's sales tax license as issued by the state of Missouri.
- K. If a card is requested for a solicitor:
 - 1. The name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted.
 - 2. The web address for this organization, person, or group (or other address) where residents having subsequent questions can go for more information.
- L. Any other information the applicant wishes to provide, perhaps including copies of

literature to be distributed, references to other municipalities where similar activities have occurred, etc.

SECTION 610.080 ISSUANCE OF IDENTIFICATION CARD.

The identification card(s) shall be issued promptly after application but in all cases within 2 business days of completion of an application, unless it is determined within that time that:

- A. the applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years,
- B. with respect to a particular card, the individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven years, or
- C. any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

SECTION 610.090 INVESTIGATION.

During the period of time following the application for one or more identification cards and its issuance, the city shall investigate as to the truth and accuracy of the information contained in the application. If the city has not completed this investigation within the 2 business days provided in section 610.070, the identification card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. [If a canvasser requests an identification card, the investigation will proceed as described above, but if the city refuses to issue the identification card (or revokes it after issuance), the canvassers will be advised that the failure to procure an identification card does not prevent him/her from canvassing the residents of the city.]

SECTION 610.100. DENIAL; ADMINISTRATIVE REVOCATION; APPEAL.

If the City Clerk denies (or upon completion of an investigation revokes) the identification card to one or more persons she shall immediately convey the decision to the applicant orally and shall within 2 business days after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral (or written) notification, and even before the preparation of the written report, the applicant has the right of an appeal of the denial of his or her application before the Mayor upon reasonable notice.

SECTION 610.110 DISPLAY OF IDENTIFICATION CARD.

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) carried at all times and made visible to any person who might be approached by said person.

SECTION 610.120 VALIDITY OF IDENTIFICATION CARD.

Subject to the payment of any applicable fees as provided in Section 610.050, an identification card shall be valid within the meaning of this Chapter for a period of six months from its date of issuance.

SECTION 610.130 REVOCATION OF CARD.

In addition to the administrative revocation of an Identification Card, a card may be revoked for any of the following reasons:

- A. Any violation of this Chapter by the applicant or by the person for whom the particular card was issued.
- B. Fraud, misrepresentation, or incorrect statement made in the course of carrying on the activity.
- C. Conviction of any felony or a misdemeanor involving moral turpitude within the last seven years.
- D. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

SECTION 610.140 GENERAL PROHIBITIONS.

No peddler, solicitor or canvasser shall:

- A. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right of way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one square foot in size and may contain words such as “no soliciting” or “no solicitors” in letters of at least two inches in height. The phrase “no soliciting” or “no solicitors” shall also prohibit peddlers and canvassers. This prohibition shall not apply when the peddler, solicitor, or canvassers has an express invitation from the owner or occupant to enter upon any posted property. Any person violating this subsection shall have committed a trespass on such property, and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.
- B. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words “no soliciting” or “no solicitors” and which is clearly visible to the peddler, solicitor or canvasser. This prohibition shall not apply when the peddler, solicitor, or canvassers has an express invitation from the owner or occupant to enter upon any posted property. Any person violating this subsection shall have committed a trespass on such property, and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.

- C. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property. Any person violating this subsection shall have committed a trespass on such property, and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.
- D. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- E. Enter upon the property of another except between the hours of 9:00 a.m. and the time designated as sunset published for that date in the *Kansas City Star*, or 7:30 p.m. whichever is earlier, Monday through Saturday. This prohibition shall not apply when the peddler or solicitor has an express invitation from the owner or occupant to enter upon any posted property. Any person violating this subsection shall have committed a trespass on such property, and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass. The prohibition contained in this subsection shall only apply to peddlers and solicitors, and not canvassers.
- F. Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- G. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- H. Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- I. Failing to provide proof of the Identification Card when requested.
- J. Using the Identification Card of another person.
- K. Claim to have the endorsement of the City solely based on the City having issued an Identification Card to that person.

SECTION 610.150 DISTRIBUTION OF HANDBILLS AND COMMERCIAL FLYERS.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:

- A. No handbill or flyer shall be left at, or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way.
- B. No handbill or flyer shall be left at, or attached to any privately owned property in a manner that causes damage to such privately owned property.
- C. No handbill or flyer shall be left at, or attached to any of the property having a “no solicitor” sign.
- D. Any person observed distributing handbills or flyers shall be required to identify himself/herself to the police (either by producing an identification card or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the city receives a complaint of damage caused to private property during the distribution of handbills or flyers. (Ord. No. 2016-2904, 3/8/2016)