

CHAPTER 5

BUSINESS AND OCCUPATION LICENSES

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CHAPTER 5

BUSINESS AND OCCUPATION LICENSES

ARTICLE 1. ADMINISTRATION OF LICENSES IN GENERAL, AND REQUIREMENTS THEREOF.

SEC. 5.01.001. APPLICABILITY.

It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Chapter. Where this Chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

SEC. 5.01.002. DEFINITIONS.

A. For the purposes of this Chapter:

APPLICANT means a duly authorized officer or person of a business applying for an occupation license, either new or renewal.

BUSINESS means all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City, or anywhere else within its jurisdiction, unless specified as a non-business through State or City Charter exemption.

CITY means the City of Independence, Missouri.

CITY LICENSE OFFICER or **LICENSE OFFICER** means the individual(s) so appointed by the City Manager.

COMMISSARY means a commissary as defined in Chapter 11 of this Code.

CRISIS CENTER means a not-for-profit organization that provides counseling, intervention and support services to individuals and families experiencing domestic violence, sexual assault or child abuse.

DISABLED CHILDCARE CENTER means a not-for-profit organization that provides educational and therapeutic programs for individuals with developmental disabilities.

DOMESTIC VIOLENCE SHELTER means a not-for-profit organization that provides counseling intervention and support services to individuals and families experiencing domestic violence, sexual assault or child abuse.

FOOD TRUCK means a vehicle mounted mobile food unit.

GROSS BUSINESS ACTIVITY means the gross value of all goods, wares, merchandise, chattel and all other personal and commercial property of every kind and description bought, sold, leased, manufactured or exchanged by the business or person during the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

GROSS COMMISSIONS means the gross amount of commissions, fees, charges or compensation earned from the business during the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

GROSS RECEIPTS shall mean the gross receipts or revenues earned from the receipt of cash, credits and property of any kind for any act or service by a business or person in the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

HOMELESS SHELTER means a not-for-profit organization that provides shelter and meals for individuals and families needing a place to live.

INSIGNIA or its singular number, insigne, means any tag, plate badge, emblem, sticker or any other kind of device which may be required for use in connection with any license.

LANDLORD means any person firm or corporation who rents or leases dwelling units owned by such person, firm or corporation.

LICENSE OR LICENSEE means specifically, a certificate holder of an occupation license or permit, or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Chapter or other law or ordinance.

LICENSE YEAR is the twelve month period beginning the first day of the month in which a license is issued for or renewed.

MAINTAINING A BUSINESS OFFICE means conducting the activities of one's occupation at a given place, phone or address within the physical boundaries of the City of Independence.

MANAGING OFFICER means the person who is in active management and control who may be designated by a corporation as the managing officer, and who may be eligible as an individual to receive a license under the provisions of this Chapter.

MOBILE FOOD UNIT means a mobile food unit as defined in Chapter 11 of this Code.

OCCUPATION LICENSE means the license that every person must obtain from the License Officer before engaging in or continuing to engage in any business, non-exempted profession or occupation in the City.

PERSON means person, partnership, society, association, club, trustee, trust or corporation; or any officer, agent, employee, factor or any kind of personal representative under either personal appointment or pursuant to law.

PREMISES means to include all lands, structures, places and also any equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

PUSHCART means a non-self-propelled mobile food unit.

REHABILITATION CENTER means a not-for-profit organization that provides treatment to individuals and their families for alcohol and chemical dependencies.

SHELTERED WORKSHOP means a not-for-profit organization that provides job opportunities for individuals with development disabilities.

SUBSTANCE ABUSE CENTER means a not-for-profit organization that provides counseling, intervention and support services to individuals and families experiencing alcohol and chemical dependencies.

B. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

SEC. 5.01.003. LICENSE OFFICER - APPOINTMENT, POWER AND DUTIES.

A. There is hereby created the office, or offices, of License Officer who shall be appointed by the City Manager.

B. For the purposes of this chapter, the License Officer shall mean the individual, or individuals, appointed by the City Manager or the individual's designate(s).

C. License Officers shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Chapter. The License Officers shall also:

1. Adopt all forms and prescribe the information to be given therein, requiring primary identification of all new applicants for a license.
2. Require applicants to submit all affidavits and oaths necessary to the administration of this Chapter.
3. Issue all licenses subject to licensee's compliance with all zoning and City Code requirements of the City of Independence.
4. Investigate and determine the eligibility of any applicant for a license as prescribed herein.
5. Examine the books and records of any applicant or licensee when necessary to the administration and enforcement of this Chapter.
6. Notify any applicant of the acceptance or rejection of the application and shall, upon the License Officer's refusal of any license or permit, at the applicant's request state in writing the reasons therefor and deliver it to the applicant.
7. Keep a complete record of all licenses issued, showing the nature of the licenses, dates of issuance and expiration, and to whom issued.
8. Keep all information furnished or secured under the authority of this Chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this Chapter.
9. Take such actions as required to enforce the provisions of this Chapter.
10. Have the discretion to resolve minor discrepancies in payment and to alter the requirements placed upon licenses when sufficient reason exists.

SEC. 5.01.004. OCCUPATION LICENSE REQUIRED.

A. Every person, whether or not located in the City, desiring to engage in any business, profession or occupation in the City shall be required to obtain an occupation license before engaging in such activity as specified in this chapter. Occupation licenses are not transferable.

B. Any person shall be deemed to be in business or engaging in non-profit enterprise and thus subject to the requirements of this Chapter when any selling, manufacturing, soliciting, transfer, bartering or offering of any goods, wares, real, intangible and tangible personal property or services takes place. One act thereof shall constitute doing business.

C. Every agent, general contractor, sub-contractor, or representative of any person desiring to engage in or to continue to engage in any business, profession or occupation shall be responsible for the compliance of such person in acquiring an occupation license as required by this Chapter.

D. No license shall be required of any person for any delivery in the City of any property purchased or acquired in good faith from any person at any regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this Chapter.

SEC. 5.01.005. SEPARATE LICENSE REQUIRED FOR EACH PLACE OF BUSINESS.

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any occupation, calling, trade or enterprise for which a license is required by this chapter.

SEC. 5.01.006. MORE THAN ONE OCCUPATION AT THE SAME ADDRESS.

Whenever any applicant for a license is engaged in more than one occupation at the same address, such applicant shall obtain an occupation license for each business as provided for elsewhere in this chapter.

SEC. 5.01.007. 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. In lieu of the presentment of said Missouri Retail Sales License, an applicant may supply the number of said license to the City. (Reference: Section 144.083 R.S.Mo.).

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 License Officer in writing of such revocation of a Retailers License before such City license shall be revoked under Sec. 5.01.017.

C. The License Officer may upon presentment of proof of issuance or reissuance of a Missouri Retail Sales License reinstate the City occupation license that any business may have had in effect at the time of revocation under the provisions of Subsection "B" above, upon the payment of a reinstatement fee as outlined in the Schedule of Fees.

SEC. 5.01.008. PROCEDURE FOR APPLICATION, ISSUANCE AND RENEWAL OF LICENSE.

A. Every person required to obtain a license under the provisions of this Chapter shall submit an application for issuance or renewal of such license to the License Officer. The application shall include the following:

1. Written statements upon forms provided by the License Officer as necessary to determine:
 - a. The gross receipts, gross business activity or gross commission of the applicant.
 - b. Every business that permits members of the public on its business premises or that performs services on premises other than its own business premise, shall certify that the business has a minimum of \$500,000 of general liability insurance for bodily injury and property damage per occurrence.
 - c. Any conviction of, or plea of guilty to, a felony or previous record of suspension or revocation of an occupation license in any jurisdiction.
 - d. That an applicant has sworn to the truthfulness and accuracy of the information provided on all forms and will abide by the provisions of this Chapter. The applicant must provide positive identification as the person applying for such license.
 - e. Any other information deemed as fair and necessary by the License Officer for the efficient administration of this Chapter.
2. The full amount of the fees chargeable for such license.

B. At the time the application is submitted, the License Officer shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the License Officer for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Chapter.

C. The applicant shall submit application for renewal of the license annually at the time specified in Section 5.01.013 of this chapter. Such application for renewal shall include a written statement upon forms provided that the information submitted on the application form is true and correct.

D. When the License Officer upon considering and applying the general standards set out in this Chapter in Sec. 5.01.017 determines that an applicant for a license, or for a renewal of a license, is not qualified under such provisions, the application shall be denied.

SEC. 5.01.009. GENERAL DUTIES OF THE POLICE.

The Chief of Police and the Police Department shall cooperate with the City License Officer, Director of Finance and other City officials for the strict enforcement of this Chapter and all license ordinances.

SEC. 5.01.010. DETERMINATION OF GROSS ANNUAL RECEIPTS.

A. For new applicants of new businesses the phrase "gross receipts", or "gross commissions" or gross business activity" shall be based on an estimated gross receipts, gross business activity or gross commissions subject to adjustment upon renewal. Such fee shall be adjusted when the actual amount of gross receipts, gross business activity or gross commission is reported on the first renewal.

B. For businesses located outside the City limits of Independence, gross receipts, gross business activity or gross commissions shall be reported for business activities which occur within the City limits.

C. For residential and commercial builders, gross receipts means all monies received from construction or sale of a residential or commercial structure. Therefore, the sales price or contract price of the residential or commercial structure is the "gross receipts", not the profit from the sale. This applies to both contract or speculative construction.

SEC. 5.01.011. STATEMENT OF GROSS ANNUAL RECEIPTS.

Every person required to obtain a license under the provisions of this Chapter where the fee for such license is based on gross receipts, gross business activity or commissions shall at the time of application and renewal, furnish the License Officer with a statement in writing showing the amount of gross receipts activities, gross business or commissions for the preceding calendar or fiscal year.

SEC. 5.01.012. EXAMINATION OF APPLICANT'S BOOKS AND RECORDS.

A. The City shall have the right at all reasonable times after due notification during regular business hours to audit or examine the books, records and tax returns of the applicant or licensee for any license provided by this Chapter for the purpose of determining the accuracy of any statement made by the applicant or licensee for such license.

B. All applications accepted by the License Officer shall be accepted subject to audit. No license shall be issued to any applicant if the applicant refuses to permit such audit or examination to be made on all prior years' licenses. No license shall be issued or continued in effect unless such an audit is permitted.

C. Should the records and books of the applicant be insufficient to permit the determination of the gross annual receipts necessary to the computation of the annual license fee, the License Officer shall revoke or deny renewal of such license. However, the licensee shall be given a thirty day period in which to present adequate records to compute such license fee.

SEC. 5.01.013. LICENSE YEAR, WHEN FEES ARE PAID, EXPIRATION.

A. Except as otherwise specifically provided by this Chapter, the year upon which fees are based for all occupation licenses shall coincide with the calendar year. Such fees shall be payable upon filing of a new application and upon renewal annually as further set out in this Section.

B. Any person applying for an occupation license whose fiscal year does not coincide with its license year under this Chapter, shall be permitted to report and pay the license fee based upon such fiscal year.

C. License fees for renewals shall be due and payable on or before the last day of the first month of each license year.

D. All licenses, except as otherwise specifically provided for in this chapter, shall expire if the renewal fee is not paid in full within the period provided for in Paragraph "C" above. A license which is not paid in full by such date is delinquent and such business or occupation will be deemed unlicensed and fall under the strict enforcement of this chapter.

SEC. 5.01.014. PRO-RATING LICENSE FEES.

Occupation license fees shall not be pro-rated but shall be charged on a license year basis.

SEC. 5.01.015. LICENSE FEES - DELINQUENT AND UNPAID, LIABILITY OF VIOLATOR.

A. All license fees required to be paid pursuant to the provisions of this Chapter of the City Code shall be deemed delinquent if not paid on the date such payment is due. All persons delinquent in the payment of such fees, in addition to the fees found to be due, shall be required to pay the license fee, plus an additional ten percent (10%) penalty of the license fee for the first month or fraction thereof past due and an additional two percent (2%) of the license fee due for each additional month such delinquency shall thereafter continue. The penalty provided for in this section shall be in addition to any other penalty prescribed by ordinance.

B. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due to the City.

C. The City Counselor may at the suggestion of the License Officer institute a civil suit in the name of the City to recover any unpaid fee.

D. No civil judgment or any act by the City Counselor, the License Officer or the violator shall bar or prevent prosecution in the City's Municipal Court for each and every violation of this Chapter.

E. Any person engaging in any business, profession, or occupation as herein specified without first having paid the license fee required herein and having secured a license for the conduct of such business, profession, or occupation shall upon conviction thereof be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense.

SEC. 5.01.016. CLAIM PROCEDURE FOR REFUND OF FEES.

New applicants for occupation licenses which never open, or which close or move during the license year or any person making a claim for a refund because of alleged overpayment of license fees as required by this Chapter shall file with the License Officer satisfactory proof in support of such claim that may include copies of Federal and State income tax returns, State sales tax returns, statements signed by a Certified Public Accountant, and original records or ledger sheets showing the amounts that are asserted were lawfully owed to the City by the licensee for the term of such license. Upon presentation of such satisfactory proof, the License Officer shall refund an appropriate portion of any previously paid license fee. However, a minimum fee of Forty Dollars (\$40.00) shall be retained in any case to cover administrative and material costs of the application.

SEC. 5.01.017. LICENSE DENIAL, SUSPENSION OR REVOCATION:

A. Denial

1. Basis for Denial - The License Officer may deny a Business License Application, for any of the following reasons:

- a. The applicant does not meet the qualifications for a business license under this Chapter of the Code;
- b. Any reviewing department, division or agency of the City has denied the application pursuant to any applicable provisions of the City Code;
- c. Applicant is delinquent in the payment of any taxes or fees due the City under this Chapter;
- d. The application contains false or incomplete information;
- e. Noncompliance with a) any requirement or condition set by the City Council, Planning Commission, or Community Development Department or, b) a conditional use permit, if applicable, granting a variance or special exceptions;
- f. Noncompliance with any City, State or Federal law, code or statute;
- g. Any other reason expressly provided for in this Chapter; or
- h. The Missouri Department of Revenue cannot issue to the applicant a Certificate of No Tax Due.

2. Procedures – Cease Operations Order

- a. When a Business License Application is denied, written notice will be provided by first class mail to the applicant by mailing a Cease Operations Order to the applicant address on file. The Cease Operations Order will identify the reason(s) for denial of the application and inform the applicant they must cease all business activity at the described location. The Cease Operation Order will identify the available appeal process.
- b. The applicant is deemed to have received written notification three (3) business days after the date of mailing of the Cease Operations Order.
- c. The Licensing Division may serve a Cease Operation Order in person by delivery of the Order to any management employee at the licensed premises or by posting on the main entrance by tacking, each followed by mailing as set out herein. When tacked or delivered in person to the premises, the Cease Operations Order is effective immediately.
- d. The Licensing Division will immediately notify the Police Department of every Cease Operations Order issued. The Police Department will assist in the enforcement of Cease Operations Orders.

B. Suspension or Revocation:

1. Basis for suspension or revocation

Any business license issued by the City pursuant to this Chapter of the City Code may be suspended or revoked for good cause by the issuing authority upon a finding that one or more of the following conditions exist:

- a. The licensee does not meet the qualifications for a license as provided under this Chapter of the Code;
- b. The renewal document contains false or incomplete information;
- c. The licensee obtained or aided another person to obtain a license by fraud or deceit;
- d. The licensee is delinquent in the payment of any taxes or fees due the City;
- e. The licensee refused to allow, or interfered with, inspection of the licensed premises by authorized representatives of the City;
- f. Violations of this Chapter of the City Code by agents or employees of a licensee and/or violations of any other laws by agents or employees committed while acting as an agent or employee of the licensee;
- g. The existence of chronic unsanitary conditions, noise, disturbances or other conditions at, in, or attributable to the premises of a licensee, that causes or tends to create a public nuisance, which may injuriously affect the public health, safety, or welfare of others, or which unnecessarily affects the adequate allocation of public safety resources;

- h. Repeatedly or purposefully permitting, allowing, or causing any business activity in violation of any ordinance, rule or law of the City, State or Federal government:
 - i. Fraudulent practices or misrepresentation in the operation of the business;
 - j. Concealment or misrepresentation in the application of a business license;
 - k. The business operation becomes unlawful or is prohibited by any code, rule or law of the City, State or Federal government;
 - l. The issuance of the license was in error or in violation of the provision of the Code;
 - m. The business premises is condemned, declared a fire hazard, or declared unsafe for business occupancy pursuant to applicable City Code Chapters;
 - n. Wrongful behavior creating a safety issue based on business activity;
 - o. Failure to remain current in the payment of taxes owed the Missouri Department of Revenue; or
 - p. Any other reason expressly provided for in this Chapter of the City Code.
2. Procedures to Suspend or Revoke a Business License
- a. The License Officer is empowered, through an Administrative Hearing, to revoke or suspend a license issued under the provisions of this chapter of the Code.
 - b. The hearing(s) shall follow the Administrative Hearing Procedures for Revocation or Suspension of Business and Other Occupation Licenses established and amended from time to time by the Licensing Division and in effect at the time of the hearing.
 - c. When the License Officer suspends or revokes a business license, he will provide written notice by first class mail to the licensee by mailing a Cease Operations Order to the last address on file. The Cease Operation Order will include a copy of the License Officer's formal written ruling and inform the applicant they must cease all business activity at the specified location. The Cease Operation Order will identify the appeal process available.
 - d. The Licensee is deemed to have received written notification of the Cease Operations Order three (3) business days after the date of mailing of the Order to the last address on file with the Business Licensing Division.
 - e. The Licensing Division may serve a Cease Operation Order in person by delivery of the Order to any management employee at the licensed premises or by posting on the main entrance by tacking, each followed by mailing as set out herein. When tacked or delivered in person to the premises, the Cease Operations Order is effective immediately.
 - f. The Licensing Division will immediately notify the Police Department of every Cease Operation Notice issued. The Police Department will assist in the enforcement of Cease Operations Orders.

3. Licensing After Revocation

A person whose license is revoked under this chapter may not apply for another business license under this chapter for a period of twelve (12) months after the final decision in the administrative appeals process or an appeal period runs without an appeal, whichever is later.

C. Penalty

Any person or business violating a Cease Operations Order under this Chapter shall be subject to a fine of not more than five hundred dollars (\$500) per day upon conviction. Each day of violation is a separate offence.

SEC. 5.01.018. Appeal Procedure:

- A. A licensee may appeal the denial of a license or applicant may appeal an adverse result of an administrative hearing under this chapter to the City Council. The City Clerk must receive from the applicant or licensee a written appeal request of the License Officer's decision to deny, suspend or revoke a business license within five (5) business days of receipt of the Cease Operation Order. The written appeal notice must state the reason(s) the decision to deny, suspend or revoke the business license was in error and include a copy of the order or decision appealed from.

- B. A licensee may continue to operate under a suspended or revoked license until the earlier of the receipt of the decision on appeal by the Council or the time to appeal has passed without an appeal being properly filed, whichever occurs first.
- C. The City Clerk will notify the City Council of the appeal request and the Council will set a time and place for the appeal hearing.
- D. The City Clerk will notify the appellant and the License Officer of the time, date and location of the appeal hearing. The notice must be given (five) 5 or more business days prior to the hearing date.
- E. The License Officer will provide the record of the action appealed to the Council and appellant.
- F. On appeal the Council will determine whether the License Officer correctly applied the provisions of this chapter.
- G. There is a rebuttable presumption that the License Officer has correctly applied the provisions of this Code that he is empowered to enforce and apply. The appellant has the burden of overcoming this presumption. The administrative appeal process under this chapter is not a judicial process and may not be used to review the underlying facts of an order or decision, the actions taken under another chapter of the Code or judicial actions.
- H. The Business License Officer will present the case to the Council at the appeal hearing.
- I. The appellant, in person or through counsel, may then present any evidence in support of their case.
- J. The Council will have the opportunity to ask questions of all parties represented at the hearing.
- K. In its decision, the Council may affirm or, if the appellant meets their burden, reverse the decision of the License Officer only on the issues specifically raised in the notice of appeal. As applicable, the Council may increase or decrease the suspension period or other penalties levied by the License Officer.
- L. After the City Council renders its decision, the City Clerk will provide the appellant written notice of the decision on appeal by First Class United States Mail. The appellant is deemed to have received written notification three (3) business days after the date of mailing to the last address on file with the Business Licensing Division. The written decision of the Council is the final decision in the administrative appeals process and all penalties shall take effect and/or be due and payable no later than the receipt of the written notice of the Council's decision.

SEC. 5.01.019. LICENSE FEES - NOT TO BURDEN INTERSTATE COMMERCE - APPLICATION FOR ADJUSTMENT AND PROCEDURE.

None of the license fees provided by this Chapter shall be so applied as to occasion an undue burden on interstate commerce. In any case where a license fee is believed by a licensee or an applicant for license to place an undue burden upon such commerce, such person may appeal to the License Officer for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce.

SEC. 5.01.020. PAYMENT UNDER PROTEST.

This Section was repealed by Ordinance No. 10885.

SEC. 5.01.021. DUPLICATE LICENSE, CHANGE IN LOCATION.

A. Whenever a license is lost or destroyed, a duplicate license shall be issued by the License Officer upon payment of a replacement fee as outlined in the Schedule of Fees.

B. Any licensee shall have the right to change the location of a licensed business provided that:

1. The licensee submits an application on forms provided by the License Officer for such change in location of the licensed business prior to making such change in location.
2. The proposed location meets the requirements of all Health, Zoning, Fire, Building and other codes of the City of Independence.
3. The licensee pays a transfer fee as outlined in the Schedule of Fees.

SEC. 5.01.022. LICENSE FEE WHEN NONE SPECIFIED.

A. Every person conducting any business, industry or enterprise or engaged in any occupation for which no license fee is, otherwise specified in this chapter or any other section of this Code shall procure a license from the License Officer, except for such occupations that are exempt from the provisions of this chapter. However, the enumeration of any business, occupation or profession in this chapter does not authorize the conduct of such business, occupation or profession that is prohibited by any Federal or State law or statute, or any City ordinance.

B. Crisis centers, disabled childcare centers, domestic violence centers, homeless shelters, rehabilitation centers, sheltered workshops and substance abuse centers operated by not-for-profit organizations shall not be required to pay a license fee except on additional revenue they derive from other types of services which are also provided by for-profit businesses.

C. Individuals serving as their own general contractor to build a dwelling for their own personal use shall not be required to pay the license fee contained in this section.

SEC. 5.01.023. DUTIES OF THE LICENSEE.

A. Every person licensed under the provisions of this Chapter shall:

1. Permit any reasonable inspection of the licensed business and examination of any books and records by public authorities so authorized by this Chapter.
2. Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
3. Avoid all unlawful practices or conditions that do or may affect the public health, safety or welfare.
4. Cease operation of the business on the premises after expiration of the license and/or during any period the license is revoked or suspended.
5. Post and maintain the occupation license upon the licensed premises in a place where it may be seen at all times.
6. Carry such license, or copy thereof, on licensee's person when such licensee has no licensed business premises.
7. Post at the premises where located any license permit issued for use in connection with any coin, vending or other business machine or device so that it may be seen at all times along with a copy of the valid City of Independence Occupation License for the owner of the machine(s).

8. Not allow any license or permit to remain posted or displayed or used after the period for which it was issued has expired, been suspended or revoked or for any other reason become ineffective.
9. Not loan, sell, give or assign to any other person, or allow any other person to use, display, destroy, damage, remove or to have in possession any license or permit which has been issued to such licensee.
10. Keep all records and books necessary to the computation of the renewal license fee and to the enforcement of the provisions of this Chapter.

SEC. 5.01.024. EXEMPTED OCCUPATIONS.

A. In accordance with Section 71.620 (1) R.S.Mo. as amended, the following professional occupations are exempt from the licensing and fee provisions of this Article:

1. Minister of the gospel
2. Duly accredited Christian Scientist practitioner
3. Teacher
4. Professor in a 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 R.S. Mo. as amended, farmers and their employees and all other producers and their employees are exempt from the licensing and fee provisions of this Article 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) R.S. Mo., as amended, the following professional occupations are exempt from the licensing and fee provisions of this Article unless that person maintains a business office within the City of Independence:

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 148.620 R.S.Mo., as amended, credit unions and associations, including savings and loan associations, are exempt from the licensing and fee provisions of this Article.

E. In accordance with Section 340.214 R.S.Mo., as amended, veterinarians (for veterinary services only), are exempt from the licensing and fee provisions of this Article.

F. In accordance with Section 345.055 R.S.Mo., as amended, clinical audiologist and speech-language pathologist, are exempt from the licensing and fee provisions of this Article.

G. In accordance with Section 324.1114, R.S.Mo., as amended, private investigators are exempt from the licensing and fee provisions of this Article.

SEC. 5.01.025. ENFORCEMENT OF THIS CHAPTER - PENALTY.

A. It shall be unlawful for any person to engage in any business without first obtaining a license to do so as required by this Chapter.

B. The following procedure shall apply for the enforcement of this Chapter with regard to inspections and violations:

1. The following persons shall be authorized to conduct inspections in the manner prescribed herein:
 - a. The License Officer making the investigations necessary to the enforcement of this Chapter.
 - b. City officials having duties to perform with reference to inspection of licensees or businesses.
2. All persons authorized herein to inspect licensees and businesses shall have the authority to enter at all reasonable times, the following premises:
 - a. Those for which a license is required.
 - b. Those for which a license was issued and which, at the time of inspection, are operating under such license.
 - c. Those for which the license has been revoked or suspended.
3. Persons inspecting licensees, their businesses or premises as herein authorized shall report any suspected violations of this Chapter or any other laws or ordinances to the License Officer and shall submit such other reports as the License Officer shall require.
4. When an inspector has reported the violation of any provisions of this Chapter the License Officer shall issue to the affected person a provisional order to correct such violation.
5. The provisional order and all other notices issued in compliance with this Chapter shall be in writing, personally served or left with the affected person's agent or employee. The notice shall apprise the person affected of the specific violations. In the absence of such person affected or the agent or employee, a copy of such notice shall be affixed to some structure on the premises. Mailing such notice to the last known address of the person affected shall constitute service thereof.
6. The provisional order shall require compliance within five days of personal service on the affected person and within ten days of affixing such notice to the licensee's premises or depositing such notice in the United States mail.
7. Upon written appeal of the provisional order by the person affected, and before the expiration of the period for compliance, the License Officer shall order a hearing. Notice of such hearing shall be given to the affected person in the manner prescribed in Section 5.01.017 (B) of this Chapter.
8. Upon written application the License Officer shall have the authority to extend the time for compliance, to grant a new hearing date, and to change, modify or rescind any recommendation or order.

9. Upon the failure or refusal of the violator to comply with the provisional order or with any order made after hearing, the License Officer may then suspend or revoke any license issued to such violator under the provisions of this Chapter (SEC. 5.01.017).

C. Any person violating any provision of this Chapter shall upon conviction thereof be punished, where no other penalty is provided in this Chapter by a fine of not more than Five Hundred Dollars (\$500.00) for each such separate violation. Each day's violation shall constitute a separate and distinct offense.

SEC. 5.01.026. LICENSE FEES FOR BUSINESSES AND OCCUPATIONS AND SUCH BUSINESSES AND OCCUPATIONS COVERED; MINIMUM LICENSE FEE.

A. Any person engaged in any one or more of the businesses, professions or occupations as specifically enumerated in the Charter of the City of Independence shall pay for the privilege of doing business or engaging in the profession of the sale, and/or manufacture of goods, merchandise or services incident thereto within the City an annual license fee.

B. In accordance with Section 148.440 R.S.Mo., as amended, the business and occupation license fee for every insurance company or insurance agent providing insurance which includes coverage for any property loss or damage caused by a fire shall not exceed Two Hundred Dollars (\$200.00) per year. The business and occupation license fee for every other type of insurance company shall not exceed One Hundred Dollars (\$100.00) per year.

SEC 5.01.027. MOBILE FOOD UNITS ALLOWED.

A. Separate Business Licenses are required for mobile food units of businesses operating as self-contained food preparation units or out of a commissary not located within the city.

B. Separate Business Licenses are not required for mobile food units of businesses operating out of a licensed commissary located within the city.

C. Mobile food units licensed under this Chapter shall:

1. obtain any other permits and comply with all other applicable regulations under Chapter 11 or other Chapters of this Code;
2. obtain and be able to produce upon request, written permission of the property owner;
3. obtain written permission, in the case of property owned by the City of Independence, as follows:
 - i. operating in City parks only with permission from the Director of Parks and Recreation or his designee;

- ii. operating in City parking lots, other than lots in use as the Farmers' Market, only with permission from the Director of Public Works or his designee. In the Independence Square retail area and Englewood Arts District, the Director of Public Works will designate by signage pre-approved parking locations. Vendors will be able to operate in these designated areas on a first-come first-served basis;
- 4. obtain consent of the owner or occupant of the property immediately abutting the parked food truck when parking in a residential district;
- 5. operate upon City rights-of-way (streets or sidewalks) so as not to obstruct the flow of vehicular or pedestrian traffic;
- 6. restrict operations to paved surfaces;
- 7. not block any street or alley;
- 8. be attended at all times, whether serving or not;
- 9. limit operations to the period between 6:30 a.m. and 9:00 p.m.;
- 10. not sell food items within fifty (50) feet of the front facing façade, and the side facing façade if adjacent to a public road, of a restaurant, deli, cafeteria, or other eating establishment selling food items during the time it is open for business, except that food items may be sold from pushcarts within this fifty (50) foot zone, if owned and operated by a restaurant located within that fifty (50) foot zone; and
- 11. comply with special event vending requirements for street fairs, parades and block parties, which have been approved by the City.

SEC. 5.01.028. VIDEO SURVEILLANCE CAMERA REQUIREMENTS.

- A. This section is enacted to reduce the potential for situations where employees of certain hotels/motels, convenience stores, with and without fuel sales, or tobacco stores are exposed to potential death and/injuries because of actions of people with criminal intent, and retrieving an image and/or video to assist in criminal offender identification, apprehension and prosecution.
- B. DEFINITIONS.
 - 1. "Hotel/Motel" are as defined by Section 14-200-05-M.2 of the Unified Development Ordinance.
 - 2. "Convenience stores, with and without fuel sales, or tobacco stores" are as defined by Section 14-201 of the Unified Development Ordinance.
 - 3. "Video surveillance system" or "VSS" means a continuous digital surveillance system including cameras, cabling and/or remotes, monitors, and digital video recorders that records in color with cameras and lens. The system shall be capable of producing a retrievable and identifiable images and video recordings on media that can be enlarged through projection or other means, and can be made a permanent record for use in criminal investigation.
- C. VSS REQUIRED.

Hotel/motels, convenience stores, with and without fuel sales, or tobacco stores shall be equipped with a VSS capable of recording and retrieving an image to assist in offender identification, apprehension and prosecution. At a minimum, hotel/motels, convenience stores, with and without fuel sales, or tobacco stores shall:

1. Have two (2) color digital high-resolution surveillance cameras inside the hotel/motel, convenience store, with and without fuel sales, or tobacco store. One surveillance camera shall have an overall view of the counter/register area and the other surveillance camera shall have a view of the main entrance/exit area. The entrance/exit area surveillance camera shall be placed to provide a clear and identifiable full frame of the filmed individuals face and all cameras shall remain unobstructed by any display sign or other item; and
2. Have at least two (2) digital high-resolution surveillance camera outside the establishment. The surveillance cameras shall have an overall view of:
 - a. The parking areas and/or fuel pump areas for convenience stores, with and without fuel sales, or tobacco stores; and
 - b. The entrances to the parking areas for hotels/motels; and
3. Have a VSS showing the correct date and time of the recording; and
4. Have a VSS operated at all times, including hours when the hotel/motel, convenience store, with and without fuel sales, or tobacco store is not open for business; and
5. Have a VSS maintained on a routine basis, not to exceed every six (6) months to ensure that the VSS is working properly at all times; verification of such maintenance, including test digital images produced when the VSS is installed or maintained, retained on the premises and made available for periodic inspection by the business license department or the police department during all hours in which the hotel/motel, convenience store, with and without fuel sales, or tobacco store is open; and
6. Provide the police department with access to the VSS upon request in connection with crime investigations; and
7. Have one (1) or more digital video recording devices used to record images from each surveillance camera in the hotel/motel, convenience store, with and without fuel sales, or tobacco store. Each recording device shall be kept in a secured location that is remote from the surveillance cameras. The owner shall maintain a library of the recorded digital images for not less than 7 days; and
8. Have posted at all public entrance/exit signs or decals indicating that surveillance cameras are in use.

D. EXTERIOR LIGHTING REQUIRED.

All exterior areas of hotels/motels, convenience stores, with and without fuel sales, or tobacco stores shall be lighted in accordance with Section 14-508 of the Unified Development Ordinance.

E. EXEMPTION.

A hotel/motel, convenience store, with and without fuel sales, or tobacco store may apply to the Chief of Police, or designee, for exemption from the provisions of this Section if that hotel/motel, convenience store, with and without fuel sales, or tobacco store has undertaken alternate measures which are substantially equal to or more effective in preventing criminal activity and assisting in the apprehension of the perpetrator and for protecting employees. If the Chief of Police, or designee, approves such alternative measures submitted by the hotel/motel, convenience store, with and without fuel sales, or tobacco stores, then the hotel/motel, convenience store, with and without fuel sales, or tobacco store shall not be required to comply with the provisions of this section for as long as the approval of the Chief of Police or designee is effective. If the application for exemption is denied by the Chief of Police or designee, the hotel/motel, convenience store, with and without fuel sales, or tobacco store may then appeal to the City Council for further review of the application for exemption and the decision of the City Council shall be final, except, to such extent the same may be changed by judicial review.

F. EFFECTIVE DATE OF REQUIRMENTS.

All hotels/motels, convenience stores, with and without fuel sales, or tobacco stores commencing operations from and after the effective date of the ordinance codified in this Section shall immediately comply with all the provision upon opening its doors to the public. All convenience store, with and without fuel sales, or tobacco stores in operation (doors open to the public on a regular and continuous basis) prior to the effective date of the ordinance codified in this Section shall comply with all provisions of this chapter no later than January 1, 2017. All hotels/motels in operation (doors open to the public on a regular and continuous basis) prior to the effective date of the ordinance codified in this Section shall comply with all provisions of this chapter no later than July 1, 2018.

SEC. 5.01.029 - 5.01.999 RESERVED.

ARTICLE 2. PUBLIC DANCE PLACES

SEC. 5.02.001. DEFINITION.

In this Article:

PLACE FOR DANCING means any public dance hall, ballroom, restaurant, upon the payment of a fee or for other consideration.

SEC. 5.02.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or license holders of places for public dancing shall not be construed as the only requirements of such persons under this Chapter. Rather, Article 1 shall be applied here in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.02.003. PUBLIC DANCE LICENSE REQUIRED.

A. In addition to the occupation license required by Section 5.01.004 and Section 5.01.026 of this Code, any person who operates or proposes to operate a place for dancing shall obtain a license to operate such place for dancing from the License Officer.

B. Any person obtaining a license under the provisions of this Article shall first have obtained an occupation license, or in the alternative, such person shall submit an application for an occupation license concurrently with the application for a license as required by this Article.

C. Any person applying for a license to conduct a public dance on one occasion shall not be required to obtain an occupation license except and unless an admission fee is charged.

SEC. 5.02.004. PUBLIC DANCE LICENSE APPLICATION.

The application for a license to operate a place for dancing or to conduct a public dance shall be made to the License Officer on forms provided and shall contain the following information:

1. The name and address of the applicant and the trade name under which business is conducted; if a corporation, its name, date and place of incorporation, address of its principal place of business, names of its principal officers together with their respective residence addresses; and if a partnership or association, the names of the partners or other persons comprising the association and the business and residence address of each partner or person.
2. The experience of the applicant in the business of conducting public dances and the location of the proposed place where public dances are to be conducted.
3. The names and addresses of the managing personnel of the place for dancing.
4. A brief description of the place which the applicant contemplates operating, giving particular attention to the frequency of the holding of dances, age group of the public to be invited, and whether intoxicating beverages will be offered for sale.
5. Such other information as the License Officer may determine to be necessary in the administration of this Article.

SEC. 5.02.005. LICENSE FEE.

A license fee shall be paid upon the issuance of a license to operate a place for dancing or to conduct a public dance.

SEC. 5.02.006. UNLAWFUL ACTS - LICENSEE.

In the operation of a place for dancing, it shall be unlawful for any person to:

1. Permit the licensed premises to remain open for business between the hours of 1:30 a.m. and 7:30 a.m.
2. Permit intoxicating liquor as defined in Section 2.01.001 of the Code of the City of Independence to be consumed on the premises unless such licensee holds a proper liquor license.
3. Permit any person under the age of twenty-one years to be upon the licensed premises when such presence would constitute a violation of Section 2.09.003 of this Code.
4. Permit the violation of any provision of this Article or of any other ordinance of the City of Independence or any Federal or State law.
5. Operate a place for public dancing without having first obtained a license under the provisions of this Article.

SEC. 5.02.007. POWERS OF THE CHIEF OF POLICE.

The Chief of Police is hereby empowered to designate inspectors of places licensed for dancing by the public.

SEC. 5.02.008. TO 5.02.999. RESERVED.

ARTICLE 3. HOTELS, MOTELS, LODGING AND BOARDING
HOUSES AND PRIVATE CLUBS

SEC. 5.03.001. DEFINITIONS.

In this Article:

HOTEL means any structure or any portion of any structure that is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location.

OCCUPANCY means the use or possession or the right to the use or possession of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

OPERATOR means the person who is the proprietor of a hotel. Where the operator performs functions through a managing agent of any type other than an employee the managing agent shall also be deemed an operator for the purposes of this Article and shall have the same duties and liabilities as the principal. Compliance with the provisions of this Article by either the principal or the managing agent shall be compliance by both.

PERSON means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

RENT means the consideration charged for the occupancy of space in a hotel.

TENANT means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement.

TRANSIENT means any tenant who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such tenant so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Article may be considered.

RECORD means all electronic, typewritten, or handwritten information about a tenant.

REGISTER means a machine in which electronic or typewritten records are kept or a document or set of documents in which handwritten or typewritten records are kept.

SEC. 5.03.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of licenses for Hotels, Motels, Lodging and Boarding Houses and Private Clubs shall not be construed as the only requirements of such persons under this Chapter. Rather, Article 1 of this Chapter shall be applied here in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.03.003. TAX IMPOSED - GROSS DAILY RENT.

There is hereby levied a tax of six and one-half percent (6.5%) of the gross daily rent due from or paid by transient guests of all hotels in addition to the fees charged for occupation licenses required for the operation of all hotels as set forth in Article 1 of this Chapter. The Director of Finance shall be responsible for the administration and levy of this tax.

SEC. 5.03.004. REPORTING AND REMITTING RENTAL TAX.

Each operator shall on or before the twentieth (20th) day of the month following the close of each month make a return to the Director of Finance on forms provided of total rents charged and the amount of tax collected for transient occupancy. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director of Finance. The Director of Finance may establish shorter reporting periods for any license holder that has established a record of being delinquent in reporting and/or remitting taxes accruing hereunder. The Director of Finance may also establish shorter or longer reporting periods for any license holder to insure the efficient and effective collection of the tax.

SEC. 5.03.005. PENALTIES AND INTEREST.

- A. Any operator who fails to remit any tax imposed by this Article within the time required shall pay a penalty of one percent (1%) and interest of two percent (2%) per month, not to exceed twenty-five percent (25%) per annum, of the amount of the tax in addition to the amount of the tax.
- B. Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the tax herein required to be paid. Any penalty may for good cause be waived provided that a report thereof be made to the City Council.
- C. Any unpaid taxes shall be considered delinquent thirty (30) days after the due date.
- D. Staff will recommend to the Business License Manager the revocation of the motel/hotel's business license if the motel/hotel operator fails to pay their Transient Guest Tax within thirty (30) days past the due date.
- E. The Business License Manager will not reinstate a motel/hotel's business license until they are current in their tax payments, penalties and interest or have a signed payment agreement with the Finance Department.

SEC. 5.03.006. FAILURE TO COLLECT AND REPORT TAX-DETERMINATION OF TAX BY DIRECTOR OF FINANCE.

If any operator shall fail or refuse to collect any tax or to submit within the time provided in this Article any report and/or remittance of any tax or any portion thereof required, the Director of Finance shall proceed to obtain facts and information on which to base an estimate of the tax due. As soon as the Director of Finance procures such facts and information upon which to base such an estimate or assessment against the operator of all tax, interest and penalties provided for by this Article, the Director of Finance shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator at the business address.

SEC. 5.03.007. RIGHT TO HEARING.

Such operator may within ten (10) days after the serving or mailing of any notice make application in writing to the Director of Finance for a hearing on the amount assessed as transient guest tax. If such application for a hearing is not made within the time prescribed, the tax, interest and penalties, shall become final and conclusive and immediately due and payable by such operator. If an application is received for a hearing, the time and place of such hearing shall be fixed within five days of receipt of the request. The notice for request of a hearing should show cause why the amount, specifying tax, interest and penalties should not be fixed as specified in the assessment. After such hearing, the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the operator of such determination and the amount of such tax, interest and penalties.

SEC. 5.03.008. RETENTION OF RECORDS FOR TAXING PURPOSES.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Article to keep and preserve for a period of three years all records which may be necessary to determine the amount of such taxes as may have accrued to the City and for the collection or payment of which such operator is responsible. The Director of Finance shall have the right to inspect such records at all reasonable times, but shall hold the same in confidence and utilize the same only for the purposes of this Article.

SEC. 5.03.009. REFUNDS - OVERPAYMENT OF TAXES.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously collected or received by the City under this Article, it may be refunded as provided in Subsections B and C of this Section. A claim in writing must be presented stating, under penalty of perjury, the specific grounds upon which the claim is founded. The claim shall be on forms provided by the Director of Finance.

B. An operator may claim a refund or take as a credit against taxes to be remitted the amount previously overpaid, paid more than once or paid after being erroneously collected or received when it is established in a manner prescribed that the tax was paid on rent charged a person who was not a transient. However, neither a refund nor a credit shall be allowed unless the amount of the tax to be refunded or credited if collected from a tenant or other person has either been refunded to such person or credited to rent subsequently payable by such person to the operator.

C. No refund shall be paid under the provisions of this Section unless the claimant establishes a right thereto by written records showing entitlement.

SEC. 5.03.010. ACTIONS TO COLLECT TAXES OWED TO THE CITY.

Any tax required to be paid by any operator under the provisions of this Article shall be deemed a debt owed by such operator to the City. Any person owing money to the City under the provisions of this Article shall be liable to an action brought in the name of the City for the recovery of such amount.

SEC. 5.03.011. UNLAWFUL ACTS - HOTEL OPERATOR.

It shall be unlawful for any operator to fail or refuse to register a hotel or to submit any tax return or other financial records or to refuse to permit any necessary inspection of hotel records by the Director of Finance or to willfully render a false or fraudulent tax return or claim as required by this Article.

SEC.5.03.012.HOTEL REGISTER REQUIRED.

Every Operator of a Hotel, as defined by this Chapter, shall keep a register in which the following information shall be entered legibly, either in electronic, ink, or typewritten form, prior to the room being furnished or rented to a tenant: (a) the true name and residence address for the tenant, and (b) the make, type and license number of any vehicle under the control of the tenant, if the vehicle will be parked on Hotel premises. The Register shall also show the day, month, and year when such information was entered, the day, month and year of tenant check-in, and the room or rooms to be occupied by such persons. It shall be unlawful for any Operator to refuse or neglect to comply with the requirements of this Chapter.

SEC.5.03.13.IDENTIFICATION REQUIRED.

(a) The Operator shall require identification to be presented upon registration sufficient to confirm the identity of the tenant in the following instances: i) when a tenant obtains a right to Occupancy by paying for the room entirely in cash; ii) when a tenant has not made a prior reservation and obtains a right to Occupancy on a “walk-in” basis; and iii) when, at the time of tenant registration, the Operator does not have in its possession all of the Register information required by Sec.5.03.012(a).

(b)At the time of check in, the Operator shall record in the Register the type of identification presented, the number and expiration date of the identification presented, and the information required by Sec.5.03.012. The Operator may comply with this Section by copying and or scanning a Government issued pictured identification and recording the information in the Register.

(c) A major credit/debit card must be presented upon registration in order to reserve a room unless, at the time of tenant registration, the Operator has in its possession a major credit/debit card number from the tenant or the entity responsible for the cost of the room. This provision does not prohibit Hotels from accepting alternative methods of payment upon check out.

SEC.5.03.014.RETENTION OF REGISTER.

(a)The Operator shall keep the Register on the Hotel premises in the Tenant reception, Tenant check-in area, or in an adjacent office. The Register shall be maintained at that location on the Hotel premises for a period of three (3) years from the date of the last entry in the Register.

(b)No person shall alter, deface, or erase the Register so as to make the information recorded in it illegible or unintelligible, or hinder, obstruct, or interfere with any inspection of the Register under this Chapter.

SEC.5.03.015.REGISTER – FORMAT.

Any Register maintained in the form of a book shall be permanently bound, each page shall be sequentially numbered and the book shall be the minimum size of eight by ten inches. No page shall be removed from the book. A Register may be maintained electronically, but the electronic Register must be printable.

SEC.5.03.016.FALSE INFORMATION PROHIBITED.

It is unlawful for any tenant to use or allow the use of any name other than his or her true name in so registering.

SEC.5.03.017.FREQUENCY OF RENTAL.

The Operator shall not rent any room more than two times during any 24-hour period, beginning at 12:00 noon and ending at 12:00 noon the following day.

SEC.5.03.018.POSTING REGULATIONS.

Every Operator shall maintain a copy of these City Code provisions on the premises. Every Operator shall post in a conspicuous place on the Hotel premises, within reasonable view of any person who wishes to become tenant of the Hotel, a notice reading “City of Independence Code Regulations on hotel occupancy are available upon request.”

SEC.5.03.019.PENALTY FOR VIOLATION.

A. PENALTIES. Any person found guilty of a violation of this chapter of the City Code shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months.

B. Continuing Violation. Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

SEC. 5.03.020. TO 5.03.999. RESERVED.

ARTICLE 4. ITINERANT MERCHANTS AND VENDORS

SEC. 5.04.001. DEFINITIONS.

AMUSEMENT ACTIVITY means providing public entertainment through the sale of rides and/or non-gambling gaming activities.

BAZAAR means a benefit sale of various items at an organized event for a specific organization not exceeding five (5) consecutive days.

BUILDING means a building as defined in Chapter 14 of this City Code.

CONVENTION CENTER means a facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions.

CRAFT SHOW means the sale of various handcrafted goods at an organized event sponsored by a specific organization not exceeding five (5) consecutive days.

HANDCRAFTED GOODS means goods produced or created by the vendor from raw or basic materials. The materials must be changed into a significantly different shape, design, form, or function. This definition includes cut flowers, but does not include food items, beverages, or any other commodity intended for human consumption. Commercially grown, manufactured, or processed goods in their finished form do not constitute "handcrafted goods." The use of a commercially produced item to form a significant part of the good shall cause the good to be non-handcrafted unless the commercially produced item has been substantially changed in function or character.

ITINERANT MERCHANT means any person whether as owner, agent, consignee or employee, who engages in a temporary or transient business of selling and delivering merchandise or services or operating a commercial or promotional amusement activity within the City with the intention of continuing in operating such business in one place for a period of not more than two hundred and ten (210) days within any twelve (12) consecutive month period, except for mobile food units under this Chapter.

SHOPPING CENTER means a shopping center as defined in Chapter 14 of this Code.

SEC. 5.04.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of Itinerant Merchant Licenses shall not be construed as the only requirement of such persons under this Chapter. Article 1 shall be applied herein in its entirety, except where specific provisions of this Article override the general provisions of Article 1.

SEC 5.04.003. ITINERANT LICENSE REQUIRED.

A. It shall be unlawful for any person to engage in business as an Itinerant Merchant within the City without first obtaining a license in compliance with the provisions of this Article.

B. Any person who meets the provisions of this Article as an itinerant merchant shall not be required to obtain an occupation license under the provisions of Section 5.01.004 or Section 5.01.026 of this Chapter.

C. Nothing contained herein shall be construed as granting permission to use public property for the operation of said business.

D. The owner or agent of a Shopping Center, Convention Center or other facility may obtain an annual Itinerant Merchants License for the activities of Itinerant Merchants at these facilities. Individual activities conducted at these facilities shall not be longer than fifteen (15) consecutive days in duration.

The owner or agent of these facilities shall maintain records that include the name, address, business telephone number, general description of the goods or services offered and Missouri Retail Sales Tax number of each promoter, vendor or exhibitor. In the event the promoter, vendor or exhibitor does not have a Missouri Retail Sales Tax Number, the owner or agent will certify that the owner or agent has given the promoter, vendor or exhibitor a Missouri Sales Tax Report. These records will be maintained for two years and be available for inspection by the License Officer or designee.

E. All Itinerant Merchant businesses must be conducted wholly within a building, except as provided in Section 5.04.009.

SEC. 5.04.004. ITINERANT LICENSE APPLICATION.

An applicant for a license under this Article shall file an application with the License Officer signed by the applicant if an individual, by all partners if a partnership and by a corporate officer if a corporation. The application shall include the following information:

1. Name, address of proposed business operation and telephone number of the applicant.
2. Permanent address of the applicant.
3. Name and address of the person for whom the business will be conducted. (If a corporation, under the laws of the state in which the business is incorporated).
4. Name and address of the person or persons having management or supervisory responsibility of the firm being represented by the applicant.
5. The place or places in the City where it is proposed to carry on the applicant's business and the length of time during which it is proposed that said business shall be conducted.
6. A statement of the nature and character of the merchandise to be sold or offered for sale by the applicant in the City
7. A statement as to whether or not the applicant has been convicted of a felony, the nature of such offense and City, County and State where such conviction was rendered.
8. A letter of approval or copy of lease from the owner or agent of the premises to be licensed.
9. The applicant's Missouri State Retail Sales License and Sales Tax numbers for remittance of required state and local sales taxes.

SEC. 5.04.005. PUBLIC LIABILITY INSURANCE REQUIREMENTS.

A. Before any license as provided by this Article shall be issued to an applicant, such applicant shall procure public liability insurance with the following coverage:

1. For bodily injury to or death of any one person in the amount of not less than Three Hundred Thousand Dollars.
2. For any one accident in the amount of Three Hundred Thousand Dollars.
3. For damage to the property of another person in the amount of not less than Fifty Thousand Dollars for any one accident.

B. The applicant shall file with the License Officer a certificate of insurance issued by the insurance carrier concerned as evidence that the public liability insurance requirements have been complied with.

C. Every insurance policy required under this Article shall extend through the period covered by the license applied for. The cancellation or termination of such policy shall automatically terminate and revoke the license issued under the provisions of this Article unless another policy complying with the provisions of this Article shall be provided and is in effect at the time of such cancellation or termination period.

D. Insurance for an event may be provided which covers all vendors participating provided the aggregate limit of such policy shall be at least Two Million Dollars.

E. If either State or Federal regulations require higher insurance limits for any activity covered by the license, those limits shall become the minimum limits for issuance of the license.

F. An application for alternative insurance limits or provision of self insurance, bonds or letters of credit may be submitted and can be approved with the consent of the City Counselor.

SEC. 5.04.006. EXHIBITION OF LICENSE.

The license issued under this Article shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for a license shall desire to do business in more than one place within the City, separate licenses shall be required for each place of business.

SEC. 5.04.007. ITINERANT LICENSE FEES.

Applications must be accompanied by a fee established by the City Council. Any application that is not accompanied by the required fee will be returned to the applicant as incomplete and no further processing of the application will occur. Fees will not be required with applications initiated by the City.

SEC. 5.04.008. ITINERANT LICENSE FEE EXEMPTIONS.

There shall be exempted from the fee provisions of this Article the first six (6) craft shows or bazaars conducted each calendar year by a religious, charitable, eleemosynary institution and educational institution located on the premises of the applicant. Organizations sponsoring a craft show or bazaar must notify the License Division at least thirty (30) days prior to each show. The License Division will issue an exemption letter after processing an application with a written request for exemption.

SEC. 5.04.009. ITINERANT LICENSE REGULATIONS.

A. No business shall be conducted by an Itinerant Merchant outside a building, except for operation of an amusement activity and those activities of persons exempt from the license fee as set forth in Section 5.04.008 and those described in subparagraph B and C below.

B. Amusement activities shall be allowed to operate outside a building.

C. Itinerant Merchant businesses may be conducted in the parking lot of a Shopping Center or Convention Center provided written permission has been provided by the owner or owner's agent of the Shopping Center or Convention Center.

D. All activities associated with the Itinerant Merchant business shall comply with applicable provisions of this Code and applicable state and federal regulations.

E. Itinerant Merchant businesses may be allowed to operate on private property within areas where access to the private property using public property has been restricted by a lease of the public property to a third party.

F. Any person granted a license under the provisions of this Article for a commercial or promotional amusement activity shall within twenty-four (24) hours after the cessation of such activity remove from the premises where such activity took place all trash, refuse, rubbish, signs and all unsold merchandise.

SEC. 5.04.010 VENDORS ON PUBLIC PROPERTY.

A. A person shall not occupy public property in the city for the purpose of selling, distributing, or offering for sale services or goods, including, but not limited to food, drinks, flowers, plants, tickets, or souvenirs.

B. It is a defense to prosecution under this section that the person selling, distributing, or offering for sale services or goods:

- (1) is doing so in connection with the transaction of official government business;
- (2) is doing so by authority of a contract with the city on designated areas of public property;
- (3) is selling, distributing, or offering for sale only periodicals from a coin-operated machine by authority of a license to operate the machine;
- (4) is selling, distributing, or offering for sale goods or services as authorized by a special event permit;
- (5) is selling, distributing, or offering for sale only printed matter that is not commercial printed matter, including, but not limited to, newspapers and magazines, and the selling, distributing, or offering for sale is not being conducted from machines or other structures that occupy public property; or
- (6) is operating a vehicle for hire.

SEC. 5.04. 011 Penalty. Any licensee violating the provisions of this Article shall upon conviction thereof be subject to the penalty prescribed by Section 5.01.025C of this chapter.

SEC. 5.04.012 - 5.04.999 RESERVED.

ARTICLE 5. SOLICITORS AND PEDDLERS

SEC. 5.05.001. DEFINITIONS.

In this Article:

SOLICITOR means any person traveling from place to place canvassing, soliciting or taking orders for sale of merchandise of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. The definition shall include any person or representative of another who occupies any place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

PEDDLER means any person who sells merchandise from house to house, store to store, or other place and makes delivery thereof at the time of sale with such sales of merchandise not being made from any established place.

SEC. 5.05.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of Solicitor Licenses shall not be construed as the only requirement of such persons under this Chapter, rather Article 1 shall be applied herein in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.05.003. LICENSE REQUIREMENTS AND EXEMPTIONS.

A. Except as specifically provided elsewhere in this Chapter, it shall be unlawful for any person to engage in canvassing, soliciting or peddling within the City without first obtaining a license in compliance with the provisions of this Article.

B. The license shall be issued in a form which the licensee must carry at all times. Such license shall be exhibited at the request of any citizen with identification necessary to validate the license holder as the peddler or solicitor.

SEC. 5.05.004. LICENSE APPLICATION.

An applicant for a license under the provisions of this Article shall file with the License Officer a sworn application in writing on a form to be furnished by the license officer that shall include the following information:

1. Name and description of the applicant.
2. Permanent home address and local address of the applicant.
3. A brief description of the nature of the business and the goods to be sold.
4. If employed by a person, firm or corporation, the name and address of the employer.
5. The length of time for which the right to do business is desired.
6. A statement as to whether or not the applicant has been convicted of any felony and the nature of the offense therefore.

SEC. 5.05.005. LICENSE FEE.

A. The fee for a license issued under the provisions of this Article shall be paid in accordance with the Schedule of Fees.

B. Any person who meets the provisions of this Article as a solicitor or peddler shall not be required to obtain a separate Occupation License under the provisions of Section 5.01.004 of this Chapter.

C. The annual fee as herein provided shall be assessed on a calendar year basis.

SEC. 5.05.006. CHARITABLE SOLICITATION.

A license shall not be required for any person to engage in canvassing, soliciting, or fund raising as an authorized representative for any charitable, religious, eleemosynary, educational organizations, incorporated or unincorporated as a not for profit organization, and qualifying as tax exempt under the Internal Revenue Code Section 501 and subsections thereof, including 501(A), (B), (C) and (D), Code of 1954 as amended.

Such person shall submit a request for exemption from the license requirements of this chapter and proof as a duly authorized representative of a charitable, religious, eleemosynary, educational or other not for profit organization to the License Officer on an official letterhead signed by the managing official of such organization. In addition, such request shall contain the following information:

1. Name of the organization.
2. Address and telephone number of the organization.
3. Purpose and type of canvassing or solicitation.
4. Name of canvassers or solicitors.
5. Inclusive dates during which canvassing or soliciting is to take place.
6. Any other information deemed necessary by the License Officer.

The determination of whether any organization comes under the purview of said Internal Revenue Service exemption shall be made by the License Officer.

Any letter requesting exemption from the license requirements of this chapter shall be submitted to the License Officer thirty (30) days prior to the beginning date of the proposed canvassing, soliciting or peddling. The License Officer shall have the final authority in determining any exemption from the license requirements of this chapter.

The License Officer shall maintain a list of all charitable, religious, eleemosynary, educational or other not for profit organizations for which an exemption from the license requirements of this chapter has been granted. Any such exemption that is granted shall be in the form of a letter signed by the License Officer.

SEC. 5.05.007. TRANSFER OF LICENSE.

No license issued under the provisions of this Article shall be transferable at any time to any other person.

SEC. 5.05.008. RESTRICTIONS.

A. No peddler or solicitor or anyone on their behalf shall sell or solicit anything from any person at any property designated by a sign conspicuously posted at the front door of the property, indicating "No Solicitation," "No Solicitors," "No Peddlers," or other similar language expressing the unwillingness of occupants at the property to accept peddler or solicitors.

B. No peddler or solicitor or anyone in their behalf shall shout or use any sound device in any public place, including but not limited to streets, alleys, sidewalks or parks or upon any private premises where a sound of sufficient volume is emitted therefrom capable of being plainly heard in such public places for the purpose of attracting attention to any merchandise which such peddler proposes to sell.

C. No peddler or solicitor shall have any exclusive right to any location in the public streets. Such persons shall not be permitted a stationary location or be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this Article, the judgment of the Police Chief shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced.

D. Activities of peddlers and solicitors shall be limited to the hours between 9:00 a.m. and 6:00 p.m. No peddler or solicitor shall return to the same occupied residence a second time in less than six (6) months unless previously authorized by an occupant of the residence at the time of the first call.

SEC. 5.05.009. EXPIRATION OF LICENSE.

All annual licenses issued under the provisions of this Article shall expire on the 31st day of December in the year issued. Licenses other than annual licenses shall expire on the date specified in the license.

SEC. 5.05.010 - 5.05.999 RESERVED.

ARTICLE 6. BILLIARD HALLS AND GAME ROOMS

SEC. 5.06.001. DEFINITIONS.

In this Article:

BILLIARD HALL means any premises at which money is exchanged for the purchase of games on a billiard or pool table.

BILLIARD TABLE means any pool table, billiard table, pigeon hole table, Jenny Lind table, bumper pool table, snooker table or any other table not coin operated and used for gaming and upon which balls and cues are used for play.

GAME ROOM means any premises at which money is exchanged for the purchase of games on tables or boards.

JUVENILE means a Youth under seventeen years of age, not regarded as an adult under Missouri law.

SEC. 5.06.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of Billiard Hall Licenses shall not be construed as the only requirement of such persons under this Chapter, rather Article 1 shall be applied herein in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.06.003. LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of operating a Billiard Hall or Game Room in the City without having first procured an occupation license as required by Section 5.01.004 and Section 5.01.026 of this Chapter.

SEC. 5.06.004. PROVISION FOR ISSUANCE OF A LICENSE.

A. No license shall be issued to any keeper of billiard tables or game rooms in any place of business located within three hundred feet (300') from the premises of any public or parochial school.

SEC. 5.06.005. LICENSE AND TABLE FEES.

A. In addition to the occupation license fee as required by Section 5.01.026 of this Chapter, there is an additional license fee for each billiard table or game board in accordance with the Schedule of Fees.

B. The fee for each billiard table or game board in sub-section A above may, upon request of the licensee, not apply to any place of business which holds a Restaurant/Bar license issued per Article 1 of Chapter 2.

SEC. 5.06.006. JUVENILES NOT ALLOWED ON PREMISES.

A. Licensed keepers of billiard tables or game boards shall not permit any person under the age of eighteen (18) years on the premises unless accompanied by a parent or guardian.

B. Any business being exempted from the license fee per Section 5.06.005 B above shall not allow anyone under the age of twenty-one (21) to enter the premise after 6:00 P.M. or be on the premise between the hours of 8:00 P.M. and 6:00 A.M. This sub-section shall not apply for special events in which the License Officer has been notified at least ten (10) days in advance of the event taking place.

SEC. 5.06.007. LICENSEE TO KEEP ORDER.

Every licensed keeper of one or more billiard tables or game boards shall be charged with maintaining peace and order at all times, and shall not allow gambling or other disorderly conduct to take place in the business establishment.

SEC. 5.06.008. INTOXICATED PERSONS PROHIBITED AT BILLIARD HALLS.

It shall be unlawful for any keeper of billiard tables or game boards to allow anyone to play or loiter around such place of business while under the influence of intoxicating liquor or beer or nonintoxicating beer. No such keeper shall permit the consumption of intoxicating liquor or beer or non-intoxicating beer in the place of business or permit any intoxicated person to be on the premises. This section shall not apply if the place of business holds a license issued per Article 1 of Chapter 2.

SEC. 5.06.009 - 5.06.999 RESERVED.

ARTICLE 7. JUKE BOXES AND AMUSEMENT DEVICES

SEC. 5.07.001. DEFINITIONS.

In this Article:

ARCADE OPERATOR means any person having five or more amusement devices for public use upon business premises.

JUKE BOX means any music vending machine or device which upon the insertion of a coin, slug, disc, key or paper money in a slot or other opening operates for the emission of music.

AMUSEMENT DEVICE means any machine or device (mechanical or electronic) which, upon the insertion of a coin, slug or disc, or otherwise purchase the right to use, may be operated by the public generally for use as a game or amusement, including but not limited to marble machines, billiard tables, game board, pinball machines, skill-ball, mechanical grab machines and other similar games.

PERSON means any person, firm, corporation or association which owns, controls or in whose place of business any juke box or amusement device is located.

SEC. 5.07.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of Vending Machine and Amusement Device Licenses shall not be construed as the only requirement of such persons under this Chapter, rather Article 1 shall be applied herein in its entirety, except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.07.003. GAMBLING DEVICES NOT PERMITTED.

Nothing in this Article shall in any way be construed to authorize the licensing of any mechanism that has been judicially determined to be a gambling device.

SEC. 5.07.004. LICENSE REQUIRED.

In addition to the occupation license required by Section 5.01.004 and Section 5.01.026 of this Chapter, any person displaying for public patronage or keeping for operation any juke box or amusement device shall be required to obtain a license from the License Officer.

SEC. 5.07.005. LICENSE APPLICATION.

A. The application for a license filed under the provisions of this Article shall be made on forms provided by the License Officer and shall include the following information:

1. Name, home address, age and date of birth of the applicant.
2. Business address of the applicant.
3. The place where each machine or device is to be displayed or operated and the business conducted at such place.
4. A description of each machines or device to be covered by the license, its features, name of manufacturer and serial number.

B. No license shall be issued to any applicant unless the applicant shall be at least twenty-one (21) years of age.

SEC. 5.07.006. LICENSE ISSUANCE.

After the License Officer has ascertained that the applicant has complied with the requirements of this Article and Article 1 of this Chapter as well as other provisions of the City Code, the officer shall issue a license upon payment of the license fee as required by Section 5.07.007 of this Article.

SEC. 5.07.007. LICENSE FEES.

A. Every applicant, before being granted a license to operate or maintain for operation juke boxes or amusement devices, shall pay the fee in accordance with the Schedule of Fess.

B. The fee for any new juke box or amusement device, may be paid on a quarterly basis, based on the license year of the business.

C. The amusement device (coin operated pool table) fee and billiard fee above may, upon request of the licensee, not apply to any place of business which holds a Restaurant/Bar license issued per Article 1 of Chapter 2. Any business being exempted from the license fee per this sub-section shall not allow anyone under the age of twenty-one (21) to enter the premise after 6:00 P.M. or be on the premise between the hours of 8:00 P.M. and 6:00 A.M. This sub-section shall not apply for special events in which the License Officer has been notified at least ten (10) days in advance of the event taking place.

SEC. 5.07.008. DISPLAY OF LICENSE.

A. The device license as provided herein shall be posted permanently and conspicuously at the location of the juke box or amusement device in the premises where it is to operate. No more than one (1) juke box or amusement device shall be operated under one device license. The licensee shall be required to secure a license for each and every machine or device displayed or operated on the business premises.

B. If the licensee shall move the place of business to another location within the City, the licensed machine or device may be transferred to such new location upon application to the License Officer, giving the address of the new location.

SEC. 5.07.009. LIMITATIONS AND EXEMPTIONS.

A. It shall be unlawful for any person to maintain or exhibit any amusement device on any premises situated less than three hundred feet (300') from the premises of any public school, parochial school, church or playground unless the applicant for such license obtains the consent, in writing, of a majority of the Board of Directors or other similar body of such school, church or playground owner. Juke boxes are exempt from this provision.

B. No amusement arcade nor any amusement device or coin-operated musical device shall be operated so as to constitute a public nuisance.

C. It shall be the responsibility of the licensee to maintain order on the licensed premises at all times.

D. It shall be the responsibility of the licensee to see that the licensed premises does not become overcrowded so as to constitute a hazard to the health and safety of persons therein.

E. The license required and described in this Article shall be purely a personal privilege and shall not constitute property. It shall not be transferable in any manner.

F. Notwithstanding the other provisions of this Chapter, persons under eighteen (18) years of age may operate amusement devices:

1. In the nature of amusement rides; or
2. Which are located on the premises of amusement arcades where such amusement arcades have one or more coin-operated amusement devices at one location, provided:
 - a. The licensee shall provide a full-time adult attendant upon such licensed premises during business hours.

SEC. 5.07.010. SEIZURE AND DESTRUCTION OF MACHINES.

If the Chief of Police shall have reason to believe any amusement device is used as a gambling device, such device may be seized by the police and impounded, and if upon trial for allowing it to be used as a gambling device and said exhibitor is found to be guilty such device shall be destroyed by the police.

SEC. 5.07.011 - 5.07.999 RESERVED.

ARTICLE 8. JUNK, SECONDHAND DEALERS AND PAWNBROKERS

SEC. 5.08.001. DEFINITION.

In this Article:

ARTICLE means any used item acquired for resale, which is of a class of merchandise or commodity that includes, but is not limited to, automobile parts and accessories, wearing apparel, furniture, plumbing and construction materials, household appliances, musical instruments, sporting equipment, glassware, poles, wire and scrap metal.

JUNK or SECONDHAND DEALER means any person who is engaged in the business of taking in any article for resale or trade.

MANAGER is any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of a pawnshop.

MONTH means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month, and when computations are made for a fraction of a month, a day shall be one-thirtieth of a month.

NET ASSETS means the book value of the current assets of a person or pawnbroker less its applicable liabilities as stated herein. Current assets include the investment made in cash, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. Current assets do not include the investments made in fixed assets of real estate, furniture, fixtures, or equipment; investments made in stocks, bonds, or other securities; or investments made in prepaid expenses or other general intangibles. Applicable liabilities include trade or other accounts payable; accrued sales, income or other taxes; accrued expenses; and notes or other payables that are unsecured or secured in whole or part by current assets. Applicable liabilities do not include liabilities secured by assets other than current assets. Net assets must be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors.

OWNER OR OWNERS is or are the proprietor, if a sole proprietorship; all partners (general and limited), if a partnership; or all officers, directors, and persons holding ten percent (10%) or more of the outstanding shares, of a corporation.

PAWNBROKER means any person engaged in the business of lending money on the security of pledged goods or engaged in the business of acquiring tangible personal property on condition that it may be redeemed or reacquired by the original owner for a fixed price within a fixed period of time.

PAWNSHOP means the location at which, or the premises in which, a pawnbroker regularly conducts business.

PERSON means an individual, partnership, corporation, joint venture, trust, association or any other legal entity, however organized.

PLEDGED GOODS means tangible personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his or her business in connection with a pawn transaction.

SECURED PERSONAL CREDIT LOAN means every loan of money made in this state, the payment of which is secured by a security interest in tangible personal property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation.

VALUE means the fair market retail value of the article at the time and place of the acquisition of the article by the junk or secondhand dealer, or, where no reasonable monetary value can be ascertained, the cost of replacement of the Article. It is expressly provided that value, when used in this Article, shall not be determined by the cost of the article as paid by the junk and secondhand dealer.

SEC. 5.08.002. ARTICLE 1 APPLIES.

Junk and Secondhand Dealers and Pawnbrokers must also comply with Article 1 of this Chapter. Whenever any conflict exists between this Article and Article 1, the provisions of this Article shall govern.

SEC. 5.08.003. PAWNBROKER'S AGENT.

It shall be unlawful for anyone to act as agent or solicitor for any pawnbroker at a place other than that specified in the license.

SEC. 5.08.004. REGISTER - REQUIREMENTS.

A. Every junk or secondhand dealer acquiring for trade or sale any article in excess of a value of \$150.00 shall keep a register in which shall be entered, by number, the date and time the article was received and sold by the dealer along with an appropriate description of the article (including any identifying numbers), together with the name, age, and the address of the person leaving the article and the amount of money tendered for the article.

B. Register entries will be completed within a reasonable time after the receipt or purchase of any article.

C. Every register entry shall be made with ink or indelible pencil and such register entry shall not be erased, obliterated or altered.

D. A tag bearing a register entry number shall be attached to each job lot or shipment of merchandise or commodity acquired showing the date received.

E. Merchandise or a commodity need not be tagged if by its nature it is in such form as to make it impossible to be appropriately tagged. This exception does not eliminate other record keeping requirements of this Article.

F. Every junk or secondhand dealer shall deliver or otherwise make available a copy of the dealers register upon request of the Chief of Police or any designee.

G. No article acquired by any junk or secondhand dealer shall be disposed of until after proper registration has been made by the dealer.

H. The register entry number and date tag shall remain attached to each article that has been tagged until such article is resold.

SEC. 5.08.005. PAWNSHOP LICENSE REQUIRED.

A. No person shall operate a pawnshop unless such person obtains a pawnshop license issued pursuant to this section, as authorized by Section 367.043 RS.MO. To be eligible for a pawnshop license, an applicant shall:

1. Be of good moral character;
2. Have net assets of at least Fifty Thousand Dollars (\$50,000) readily available for use in conducting business as a pawnshop for each licensed pawnshop; and
3. Show that the pawnshop will be operated lawfully and fairly under state law and City ordinance.

B. An application for a new pawnshop license, the transfer of an existing pawnshop license, or the approval of a change in the ownership of a licensed pawnshop shall be under oath and shall state the full name and place of residence of the applicant, the place where the business is to be conducted, and other relevant information required by the License Officer.

C. The License Officer shall not issue a pawnshop license to any applicant who has a felony or misdemeanor conviction which directly relates to the duties and responsibilities of pawnbroker or otherwise makes the applicant presently unfit for a pawnshop license.

D. The License Officer may require the applicant to produce a finding, including the presentation of a current balance sheet, by an independent certified public accountant that the accountant has reviewed the books and records of the applicant and that the applicant meets the net asset requirements of this Article.

E. A satisfactory public liability insurance policy shall be filed with the License Officer by the applicant, covering all operations of said applicant. The sum of at least One Hundred Thousand Dollars (\$100,000) for each person injured and the sum of at least Three Hundred Thousand Dollars (\$300,000) in the case of injury to two or more persons in any one occurrence, and the sum of at least One Hundred Thousand Dollars (\$100,000) for damage to property shall be provided. Such policy shall provide that the City shall be notified of any cancellation or alteration by the insurance carrier within ten days before such cancellation or alteration becomes effective.

F. Each application shall be accompanied by an investigation fee as outlined in the Schedule of Fees.

G. Each application shall be accompanied by an annual fee as outlined in the Schedule of Fees.

SEC. 5.08.006. DISPLAY OF LICENSE.

The license provided for in this Article shall be posted conspicuously on the premises.

SEC. 5.08.007. CONTINUATION OF EXISTING BUSINESSES.

The City shall permit any person lawfully operating a pawnshop on March 26, 1993 to continue operating such pawnshop without obtaining a license required by this Article so long as such person does not violate any of the provisions of this Article, except that such person shall be required to pay the Five Hundred and NO/100 Dollars (\$500.00) annual fee prescribed in Section 5.08.005 (G) in lieu of the occupation license fee.

SEC. 5.08.008 PAWNSHOP MANAGER'S PERMIT.

A. It shall be unlawful for any person, other than an owner, to work as a manager at a pawnshop without having first obtained from the License Officer a permit to do so, to be designated as a "Pawnshop Manager's Permit", or to work as a manager at such business after such person's permit has been revoked, or while such person's permit is suspended.

B. All applications for a pawnshop manager's permit shall be signed by the applicant and notarized. All applications shall be submitted on a form supplied by the License Officer and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, and social security number;
2. The name and address of the business at which the applicant intends to work as a manager, and an "intent to hire" statement from the business that is licensed, or that has applied for a license, under the provisions of this Article;
3. A statement from the applicant that he or she has not been convicted of any felony, misdemeanor or municipal ordinance which directly relates to the duties and responsibilities of pawnbroker or otherwise makes the applicant presently unfit for a pawnshop manager's permit.
4. Any other information deemed relevant by the License Officer for the efficient administration of this provision.

C. Pawnshop manager permits shall be valid for a period of three years from the date of issuance. A fee shall be payable at the time the application is submitted for approval as outlined in the Schedule of Fees. Renewals shall be made in the same manner as provided for above.

Failure to provide information required by this subsection shall constitute an incomplete application and shall not be processed.

SEC. 5.08.009. ISSUANCE OF LICENSES OR PERMITS - FINDINGS.

A. After an investigation, the License Officer shall issue the applicable license authorized by this Article if the License Officer finds:

1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, as well as the requirements of this Chapter;
2. That the applicant has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the License Officer (as part of the original license application or application for renewal thereof);
3. That the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved the operation of a pawnshop, theft, stealing, robbery,

burglary or receipt of stolen property and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved the operation of a pawnshop, theft, stealing, robbery, burglary or receipt of stolen property;

4. That the applicant has not had a license or permit issued under the provisions of this Article revoked within five (5) years immediately preceding the application.

B. After an investigation, the License Officer shall issue or renew any applicable permit authorized by this Article if the License Officer finds:

1. That the applicant has not made any false, misleading or fraudulent statement of material fact in the application for a license;

2. That the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved the operation of a pawnshop, theft, stealing, robbery, burglary or receipt of stolen property, and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved the operation of a pawnshop, theft, stealing, robbery, burglary or receipt of stolen property;

3. That the applicant has not had a license or permit issued under the provisions of this Article revoked within five (5) years immediately preceding the application.

SEC. 5.08.010. COMPLIANCE WITH OTHER CITY ORDINANCES REQUIRED.

It shall be the duty of a pawnshop owner to comply with the building codes, zoning, fire, health and property maintenance ordinances of the City and with regulations of such departments of the City. Failure to comply with such ordinances or regulations may be a basis for suspension, revocation, or non-renewal of the license.

SEC. 5.08.011. SPECIAL CONDITIONS.

A. No pawnshop shall be permitted within one thousand two hundred feet (1,200') of any religious institution, school, or public park or any property zoned for residential use. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the pawnshop to the closest property line of the religious institution, school, or public park, or the property zoned for residential use.

B. No pawnshop shall be allowed to locate or expand within one thousand feet (1,000') of any other pawnshop. The distance between any two (2) pawnshops shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.

C. The restrictions contained in this section shall not apply to any pawnshop where items taken as security for a loan are not offered for resale to the public on the premises.

SEC. 5.08.012. MANAGER OR OWNER ON PREMISES.

A. A pawnshop manager or owner shall be on duty at a pawnshop at all times the pawnshop is open for business. The name of the manager or owner on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager or owner to have on the premise the names, addresses, home telephone numbers, date and place of birth and social security numbers of all current and former (prior two (2) years) employees.

SEC. 5.08.013. RECEIPT FOR PLEDGED GOODS.

A. At the time of making any secured personal credit loan, a pawnbroker shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

1. The name and address of the pawnshop;
2. The name, address and date of birth of the pledgor, the pledgor's description, and the driver's license number, military identification number, Social Security number, identification certificate number, or other official number capable of identifying the pledgor;
3. The right index fingerprint of the pledgor for all pledged goods for which the amount of cash advanced or credit extended to the pledgor exceeds Fifty Dollars (\$50.00);
4. The date and time of transaction;
5. An identification and description of the pledged goods, including brand name, model and serial numbers if reasonably available;
6. The amount of cash advanced or credit extended to the pledgor;
7. The amount of the pawn service charge;
8. The total amount which must be paid to redeem the pledged goods on the maturity date;
9. The maturity date of the pawn transaction; and
10. A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

B. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public.

C. Receipt entries shall be made in ink or indelible pencil and said entries shall not be erased, obliterated or altered in any way so as to cause said entries to become illegible.

D. Receipts must be maintained in a form which contains a pre-printed sequential numbering or lettering system.

E. An identifying tag must be attached to all pledged goods and shall remain on said pledged goods until redeemed or otherwise disposed of.

F. Every pawnbroker shall deliver or otherwise make available a copy of all receipts upon request of the Chief of Police or any designee.

SEC. 5.08.014. INTEREST RATES.

The maximum rate of interest which may be charged for making and carrying any secured personal credit loan shall not exceed two percent (2%) per month on the amount of such loan. Pawnbrokers may also charge for the storage and security of such pledged property.

SEC. 5.08.015. LOANS DUE AND RETURN OF COLLATERAL.

A. Every secured personal credit loan shall be due and payable in lump sum thirty days after the date of the loan contract, or, if extended, thirty (30) days after the date of the last preceding extension of the loan, and if not so paid when due, it shall, on the next day following, be in default. The pawnbroker shall retain possession of the tangible personal property subjected to the security interest to secure payment of any secured personal credit loan for a period of sixty (60) days next following the date of default. If, during the period of sixty (60) days, the borrower shall pay to the pawnbroker the principal sum of the loan, with the loan fee or fees, and the interest due thereon to the date of payment, the pawnbroker shall thereupon deliver possession of the tangible personal property to the borrower. But if the borrower fails, during the period of sixty (60) days, to make payment, then title to the tangible personal property shall, on the day following the expiration of the period of sixty (60) days, pass to the pawnbroker, without foreclosure, and the right of redemption by the borrower shall be forever barred.

B. A pledgor shall have no obligation to redeem pledged goods or make any payment of a pawn transaction.

C. Except as otherwise provided by law, any person providing proper identification and presenting a pawn ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged goods described therein.

SEC. 5.08.016. RESTRICTIONS ON PAWNSHOP OPERATIONS.

A pawnbroker shall not:

1. Accept a pledge from a person who is under eighteen (18) years of age;
2. Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
3. Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under state law or city ordinance;
4. Fail to exercise reasonable care to protect pledged goods from loss or damage;
5. Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker for the pawn transaction. In the event such pledged goods are lost or damaged as a result of pawnbroker negligence while in the possession of the pawnbroker it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind of merchandise. Pawn-brokers shall not be responsible for loss of pledged articles due to acts of God, acts of war, or riots. Each pawnbroker shall employ, if reasonably available, a reputable company for the purpose of fire and theft security.

6. Conduct transactions involving the purchase or receipt or the trade, sale or other disposition of articles between the hours of midnight and 9:00 a.m. Monday through Saturday or before noon or after 5:00 p.m. on Sunday.

SEC. 5.08.017. RECORD KEEPING.

Each pawnbroker shall keep, consistent with accepted accounting practices, adequate books and records relating to the pawnbrokers transactions, which books and records shall be preserved for a period of at least two (2) years from the date of the last transaction recorded therein.

SEC. 5.08.018. PENALTY.

Any person violating any of the provisions of this Article shall upon conviction thereof be punished by a fine of up to Five Hundred Dollars (\$500.00) for each violation. Each and every day upon which such violation continues shall be deemed a separate offense.

SEC. 5.08.019 - 5.08.999 RESERVED.

ARTICLE 9 WAS REPEALED BY ORDINANCE NO. 17207, 12/1/08

ARTICLE 10. PRIVATE WATCHGUARDS

SEC. 5.10.001. WATCHGUARD LICENSE REQUIRED.

No person shall engage in the business of private watchguard, operate a private watch service or be employed as a guard for a private watch service without having first obtained a license to do so as hereinafter provided.

SEC. 5.10.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of Private Watchguard Licenses shall not be construed as the only requirement of such persons under this chapter. Rather, Article 1 shall be applied herein in its entirety, except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.10.003. WATCHGUARD LICENSE APPLICATION.

A. Any person operating or intending to establish the business of private watchguard, private watch service, or employed or intending to be employed as a guard shall file with the License Officer a written application for a license upon forms provided by the License Officer.

B. If the application is for a license for a private watch service it shall indicate the location of its principal office, the names of the owners and operators thereof and the names of the guards to be employed together with such additional information as may be required by the License Officer.

C. If the application is for a license for a private watchguard it shall indicate the name and address of the applicant, experience in such work together with such additional information as may be required by the License Officer.

D. If the application is for a license for a guard it shall indicate the name and address of the applicant, the name and address of the private watch service employing the applicant and experience in such work together with such additional information as may be required by the License Officer.

SEC. 5.10.004. INVESTIGATION, ISSUANCE OF WATCHGUARD LICENSE AND EXPIRATION.

A. All applications for a license for a private watch service, private watchguard or guard shall be referred to the Chief of Police who shall investigate the fitness of the applicant, experience in such business, the character of service to be performed and the manner in which such business is to be carried on. The Chief of Police shall obtain such other information concerning the applicant as deemed necessary in order to determine the fitness and qualifications of the applicant for the conduct of such business. The Chief of Police shall require the applicant to submit a complete set of fingerprints together with photographs of the applicant of a size and dimension to be prescribed by the Chief of Police.

B. The License Officer shall review the report of the investigation by the Chief of Police together with the license application. If the License Officer determines that the applicant meets the requirements of this Article a license shall be issued. If the License Officer determines that the applicant is not qualified under the provisions of this Article the application shall be denied.

C. All licenses so issued shall be renewed annually upon application and payment of the fee as required by this Article. All licenses issued under this Article shall expire on the last day of the license year, unless renewed by the last day of the first month of the next succeeding license year. The License Officer shall prior to the issuance of any license hereunder affix a photograph of the licensee to the license.

D. A licensee hereunder shall be required to carry the license and to exhibit the same to any duly authorized law enforcement officer or citizen upon request. Failure to comply with this provision shall result in strict enforcement of this Chapter.

SEC. 5.10.005. LICENSE FEES.

The license fee for a license issued under the provisions of this Article shall be outlined in the Schedule of Fees.

SEC. 5.10.006. BOND REQUIREMENTS.

A. Every private watchguard licensed under the provisions of this Article and every guard employed by any private watch service licensed hereunder shall furnish a bond to the City in the sum of Ten Thousand Dollars (\$10,000.00) conditioned upon the faithful performance of such work and the observance of all ordinances of the City and laws of the State of Missouri and of the United States. Such bonds shall be for the use and benefit of the City and of any person who may have employed such licensee and have been injured by any willful, malicious or wrongful act of such licensee. The bond required hereunder shall be of a form approved by the City Counselor.

B. In lieu of the bond as provided herein, the applicant may submit a certificate of Public Liability Insurance approved by the City Counselor and Director of Finance. The certificate of insurance shall evidence that the liability insurance policy covers the policy holder and the City named as insured. The insurance shall be the sum of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) for each person injured and the sum of at least Five Hundred Thousand Dollars (\$500,000.00) for each occurrence, and Fifty Thousand Dollars (\$50,000.00) for property damage. Such policy shall provide that before it shall be canceled or altered, the License Officer shall be notified of such cancellation or alteration by the insurance carrier within ten (10) days before such cancellation or alteration shall become effective.

SEC. 5.10.007. APPLICABILITY OF ARTICLE 10.

A. The provisions of this Article are not applicable to reserve officers of the City Police Department or the Emergency Preparedness Organization of the City.

B. Private watchguards shall not be appointed special members of the City Police Department.

SEC. 5.10.008. UNIFORM REQUIREMENTS.

It shall be unlawful for any private watchguard or guard to wear a uniform similar to the uniform worn by the officers of the Police Department of the City. All private watchguards and private watch services shall exhibit to the Chief of Police a sample of the uniform they intend to wear. It shall be the duty of the Chief of Police to approve or disapprove such uniform.

SEC. 5.10.009 - 5.10.999 RESERVED.

ARTICLE 11. VERMIN AND PEST EXTERMINATORS.

SEC. 5.11.001. LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of vermin and pest extermination, rat control, extermination of rats and other rodents, ants, roaches, silverfish, termites, pigeons, moths, bedbugs and other insects by poisoning, spraying, fumigating, trapping or any other method unless such person shall have an occupation license as required by Section 5.01.004 and Section 5.01.026 of this Chapter.

SEC. 5.11.002. LOCAL AND STATE CODES APPLY.

A. The following special provisions for applicants or holders of Pest Exterminator Licenses shall not be construed as the only requirement of such persons under this chapter. Rather, Article 1 shall be applied herein in its entirety except where specific provisions of this Article override the general provisions of Article 1.

B. The full effect of the Missouri Pesticide Act of 1974, Ch. 281 R.S.Mo. shall be applied herein to ensure the provisions, restrictions and proper licensing of exterminators hereafter.

SEC. 5.11.003. LICENSE APPLICATION.

A. An application for a license made under the provisions of this Article shall be made to the License Officer on forms provided and shall contain the information required by Section 5.01.008 of this chapter. It shall also include a statement concerning the applicant's experience in the field of vermin and pest extermination.

B. All applicators and dealers of pest extermination products shall display proper State licensing before an occupation license shall be issued.

SEC. 5.11.004. LICENSE FEE.

The fee for a license to engage in the business of vermin and pest extermination shall be as required by Section 5.01.026 of this chapter.

SEC. 5.11.005. PUBLIC LIABILITY INSURANCE REQUIREMENTS.

A satisfactory public liability insurance policy shall be filed with the Director of Finance, covering all operations of any applicant proposing to engage in the above-mentioned occupation in the City. The sum of at least Fifty Thousand Dollars (\$50,000.00) for each person injured and the sum of at least One Hundred Thousand Dollars (\$100,000.00) in the case of injury to two (2) or more persons in any one occurrence, and the sum of at least Twenty-five Thousand Dollars (\$25,000.00) for damage to property shall be provided. Such policy shall provide that before it shall be canceled or altered, the Director of Finance shall be notified of such cancellation or alteration by the insurance carrier within ten (10) days before such cancellation or alteration shall become effective.

SEC. 5.11.006. LIABILITY BOND.

In lieu of insurance as herein provided, the applicant may provide, in proper form, a liability bond in the amount of One Hundred Thousand Dollars (\$100,000.00) with a surety approved by the City Counselor to indemnify any person damaged or injured.

SEC. 5.11.007 - 5.11.999 RESERVED.

ARTICLE 12. CIGARETTE LICENSE AND TAX

SEC. 5.12.001. DEFINITIONS.

The following words, terms and phrases, when used in this Article; shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CIGARETTE means roll of tobacco or any substitute thereof wrapped in paper and used for smoking.

CONSUMER means a person who comes into possession of tobacco for the purpose of consuming it, giving it away or disposing of it in any way.

DEALER means any person dealing directly with the manufacturer of cigarettes in their purchase and in the business of selling cigarettes as a first seller.

FIRST SELLER means and includes all persons who make the initial or first sale or distribution of cigarettes within the City.

JOBBER see Wholesale Dealer.

PACKAGE means the individual package, box or other container from which sales of cigarettes are normally made or intended to be made.

PERSON means any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, or any combination of individuals.

RETAIL DEALER means any person, firm or corporation other than a wholesale dealer or manufacturer engaged in the business of selling cigarettes, by personal handling or through a vending machine, to an ultimate consumer or agent.

SALE means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefore.

VENDING MACHINE OPERATOR includes all persons engaged in the distribution or sale of cigarettes by means of coin-operated vending machines.

WHOLESALE DEALER means any person, firm or corporation who shall sell, distribute, convey, give away or deliver cigarettes to retail dealers or other persons in the City for the purpose of resale only.

SEC 5.12.002. ARTICLE 1 APPLIES.

The following special provisions for applicants or holders of business licenses who must follow cigarette license tax provisions shall not be construed as the only requirement of such persons under this Chapter. Rather, Article 1 shall be applied herein in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.12.003. LICENSE REQUIRED.

Every wholesale dealer, retail dealer, manufacturer or other person engaged in selling cigarettes or delivering or displaying the same for sale within the City shall obtain an occupation license as required by Section 5.01.004 and by Section 5.01.026 of this Chapter.

SEC. 5.12.004. CIGARETTE TAX REQUIREMENT.

The wholesale dealer, jobber, or retail dealer selling cigarettes shall pay to the Director of Finance the sum of \$2.50 per 1,000 for each and all cigarettes sold, offered, delivered or displayed for sale.

SEC. 5.12.005. CIGARETTE TAX - PAYMENT PROCEDURE.

- A. No person shall sell or offer or display for sale at retail any cigarettes unless the tax has been reported or paid.
- B. The tax provided by Section 5.12.004 and reports as required by the Director of Finance shall be submitted by the fifteenth (15th) day of the next month following the month the tax is due.
- C. Every wholesaler or jobber shall generate a report detailing for each day the purchase and return of cigarette sales by customers selling to the consumer within the City.
- D. Monthly cigarette sales reports shall detail for each day of the month, the customer name, invoice number, and total cigarettes purchased by each customer for resale to the consumer.
- E. When monthly reports and payments are not received as required in paragraph B of this Section, the Director of Finance is authorized to assess a late filing fee of \$10 and interest of one percent (1%) per month.
- F. Any unpaid cigarette taxes shall be considered delinquent thirty (30) days after the due date.
- G. Staff will recommend to the Business License Manager the revocation of the wholesaler dealer, jobber or retail dealer if the operator of business fails to pay their Cigarette Tax for thirty (30) days past the due date.
- H. The Business License Manager will not reinstate a wholesale dealer, jobber or retail dealer's business license until they are current in their cigarette tax payments, penalties and interest or have a signed payment agreement with the Finance Department.

SEC. 5.12.006. LICENSING OF VENDING MACHINES.

A. Every person who, in the capacity of owner, lessee, tenant or in any other capacity, shall operate or cause to be operated, directly or indirectly, a vending machine for selling and dispensing cigarettes to the public shall obtain from the Director of Finance a license. The license, in whatever form prescribed by the Director of Finance, shall be posted conspicuously at the location of the vending machine.

B. It shall be unlawful for any person to sell and/or dispense through a vending machine any cigarettes upon which the tax has not been paid. It shall be unlawful for any person, through a vending machine, to remove the container of cigarettes, in whole or in part, or mutilate the container, before the tax thereon has been reported or paid.

C. The annual fee for any cigarette vending machine shall be Fifteen Dollars (\$15.00). The annual fee may be prorated, based on the license year of the business.

SEC. 5.12.007. SUSPENSION, REVOCATION OF LICENSE.

A. A license issued for a vending machine for selling or dispensing cigarettes may be suspended or revoked if cigarettes are sold from that vending machine to persons under the age of eighteen (18). Suspension or revocation proceedings shall be conducted in the same manner as occupation license suspension, denial or revocation as set for in Chapter 5, Article 1.

B. Whenever the Director of Finance finds that the holder of an occupation license has failed to comply with any of the provisions of this Article or any rules or regulations of the Director of Finance prescribed or promulgated under this Article, or the requirements for the installation, keeping or maintenance of vending machines as set forth in Chapter 11, Article 3, the Director of Finance shall have the authority to commence occupation license suspension or revocation.

SEC. 5.12.008. EXAMINATION OF BOOKS, RECORDS, OTHER PERTINENT DATA, EQUIPMENT.

The Director of Finance, or any duly authorized representatives, are authorized to examine books, records, invoices, papers, stock of cigarettes in and upon any premises where the cigarettes are placed, stored or sold and equipment of any such wholesale dealer or jobber pertaining to the sale and delivery of cigarettes taxable under this Article. To verify the accuracy of the tax imposed and assessed by this Article, each such person is directed and required to give to the Director of Finance, or duly authorized representatives, the means, facilities and opportunity for such examination as are provided for and required in this section.

SEC. 5.12.009. REFUND OF TAX.

Whenever any cigarettes have been sold and shipped by a wholesale dealer, jobber or retail dealer into another city or state for sale or use there or have become unfit for use and consumption or are unsalable or have been destroyed, such wholesale dealer, jobber or retail dealer shall be entitled to a refund of the actual amount of taxes paid on such cigarettes. If the Director of Finance, or duly authorized representative, is satisfied that any wholesale dealer, jobber or retail dealer is entitled to a refund, they shall be authorized to make the refund.

SEC. 5.12.010. SEIZURE AND SALE OF CIGARETTES ON WHICH TAX HAS NOT BEEN PAID - PROCEDURE.

A. Whenever the Director of Finance, or any duly authorized representatives shall discover any cigarettes subject to tax as provided by this Article and upon which said tax has not been paid the Director of Finance, or any authorized representative of the City is hereby empowered to seize and take possession of such, together with any vending machine or other mechanical device for selling and dispensing cigarettes, or any other receptacle in which they are held for sale and the cigarettes, machines or devices shall thereupon be deemed to be forfeited to the City.

B. The Director of Finance may within a reasonable time thereafter, after public notice at least five days before the day of sale, sell such forfeited cigarettes at a place designated and from the proceeds of such sale shall collect the tax due thereon together with a penalty of fifty percent (50%) thereof and the costs incurred in such proceedings. The balance, if any, shall be paid to the person in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from punishment by fine or other penalty provided herein for violation of any provisions of this Article.

SEC. 5.12.011. POWER TO ADMINISTER OATHS, TAKE AFFIDAVITS, ISSUE SUBPOENAS.

The Director of Finance, or any duly authorized representative or agents shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this Article. The Director of Finance shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of the duties indicated under this Article and the enforcement of this Article and to examine them in relation thereto.

SEC. 5.12.012. VIOLATIONS AND PENALTIES.

A. Any person violating any of the provisions of this Article shall be fined in the sum of not less than \$100.00 and not more than \$500.00.

B. Each day's violation of any provisions of this Article shall be deemed a separate offense.

SEC. 5.12.013 - 5.12.999 RESERVED.

ARTICLE 13 WAS REPEALED BY ORDINANCE NO. 11689, 8/19/91

ARTICLE 14. GARAGE SALES

SEC. 5.14.001. DEFINITIONS.

In this Article:

GARAGE SALE means a sale upon the premises of or within any dwelling, garage, accessory building or any other building, including, but not limited to sales conducted in a basement, patio or yard.

GOODS means any property capable of being the object of a sale regulated hereunder.

PERSON means any person, firm, partnership, association, organization or corporation of any kind.

SEC. 5.14.002. LIMITATIONS ON FREQUENCY OF SALES.

No garage sale shall be held or scheduled for more than three consecutive calendar days. No person shall conduct a garage sale more than twice in any one calendar year; nor shall any person hold a garage sale more often than twice in any one calendar year on the same premises.

SEC. 5.14.003. GOODS NOT TO BE DISPLAYED ON PUBLIC PROPERTY.

No goods offered for sale at a garage sale shall be displayed for sale on any public street or right-of-way.

SEC. 5.14.004. GOODS NOT ALLOWED FOR RESALE.

It shall be unlawful for any person to sell goods at a garage sale that have been purchased for resale; or to sell goods accepted or taken in for sale from any commercial business or enterprise on a consignment basis, or to sell goods not accumulated in ordinary dwelling usage.

SEC. 5.14.005. ADVERTISING SIGNS RESTRICTED.

It shall be unlawful for any person to place any sign advertising a garage sale in any street right-of-way or on any public property, including street signs and posts, and traffic signs and posts, or on any public utility pole. Any sign properly placed on private property where permission has been granted advertising such garage sale and meeting all provisions of the City Code shall be removed on or before the last day of such sale. The person responsible for conducting any such garage sale shall be responsible for removing any such sign.

SEC. 5.14.006. PENALTY.

Any person violating any of the provisions of this Article shall upon conviction thereof be punished by a fine of not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) for each such violation.

SEC. 5.14.007 - 5.14.999 RESERVED.

ARTICLE 15. DEALERS IN SECONDHAND PRECIOUS METALS AND GEMS

SEC. 5.15.001. DEFINITIONS.

In this Article:

DEALER IN SECONDHAND PRECIOUS METALS AND GEMS means any person, firm, corporation or partnership engaged in the business of acquiring secondhand precious metals or gems, as defined in this Article, for the purpose of selling or reselling such metal or gem in any form whatsoever.

PRECIOUS METALS means gold, silver, pewter or platinum group metals, in any form whatsoever, and any articles or personal property containing such metals as part of their composition, which are not purchased or sold as new.

PRECIOUS GEMS means precious and semi-precious stones, pearls, or any item, including jewelry, containing or having as part of its composition, precious or semi-precious stones or pearls customarily used in jewelry or ornamentation which are not purchased or sold as new.

PERSON means any individual, firm, partnership, association or corporation.

SECONDHAND means an item which has been used, or which has been acquired from a person other than the original manufacturer, wholesaler or retailer.

SECURED PERSONAL CREDIT LOAN means every loan of money made in this State, the payment of which is secured by a security interest in tangible personal property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation.

SEC. 5.15.002. ARTICLE 1 APPLIES.

Dealers in Secondhand Precious Metals and Gems must also comply with the provisions of Article 1 of this Chapter. Whenever any conflict exists between this Article and Article 1, the provisions of this Article shall govern.

SEC. 5.15.003. RECORD OF ACQUISITION.

A. It shall be the duty of every dealer in secondhand precious metals and gems who shall acquire secondhand precious metals or gems, in any form whatsoever, other than pursuant to a secured personal credit loan, to maintain a record of such acquisition, as set forth by the Police Department, made at the time of the transaction, including, but not limited to the following information:

1. Time, date and place of acquisition of each item.
2. Name of individual acting on behalf of dealer in making the acquisition.
3. Name, age and, address and telephone number of the person from whom the acquisition was made.
4. Confirmation of identification through a driver's license, state identification card or other identification card which contains the photograph of the individual from whom the acquisition was made. The dealer shall include in the record any identification numbers which may be displayed on the identification. Any acquisition without such proof is prohibited.
5. A clear and identifiable right index fingerprint of the person from whom the acquisition was made.
6. A clear and identifiable photograph of the precious metals or precious gems acquired, accompanied by a detailed written description of each item, including any identification numbers or markings.

SEC. 5.15.004. STATEMENT OF OWNERSHIP.

A. It shall be the duty of any dealer in secondhand precious metals or gems to obtain from the person from whom the secondhand precious metals or gems have been acquired, other than pursuant to a secured personal credit loan a written statement of ownership as set forth by the Police Department. The statement shall be signed by the person from whom the acquisition was made and delivered to the Chief of Police within 24 hours, attached to the Record of Acquisition as provided for in Section 5.15.005. It shall contain the following information:

1. Name, address, telephone number and place of employment of owner of each item and the person from whom the acquisition was made, if different from the owner.
2. Conditions under which each item to be sold came into the possession of the person from whom the acquisition was made, including where, when and from whom each item was obtained.
3. Statement that the person from whom the acquisition was made has good and marketable title to the precious metals or gems and has the right to sell them or, if other than the owner, has the owner's permission to dispose of the precious metals and/or gems.
4. Signature of the person from whom the acquisition was made declaring the statement to be true.
5. Statement of amount received for each item.

B. It shall be unlawful for any person to falsify or provide false information in the statement of ownership.

C. It shall be unlawful for any dealer in secondhand precious metals and gems to acquire secondhand precious metals or gems unless a statement of ownership is complete and signed by the person from whom the acquisition was made.

SEC. 5.15.005. RECORD OPEN FOR INSPECTION AND PROVIDED TO THE CHIEF OF POLICE.

It shall be the duty of every dealer in secondhand precious metals and gems to deliver in person or by fax to the Chief of Police of this City, or any designee at the Independence, Missouri, Police Building, the record of every acquisition of any secondhand precious metal or gem, as set out in Section 5.15.003, including all photographs contained in that record and the statement of the person from whom the acquisition was made as provided for in Section 5.15.004, within 24 hours of the acquisition. Such information shall be available for official use only. A copy of the record and statement of ownership shall be maintained by the dealer for one year and shall be open for inspection by the Chief of Police or the Sheriff of Jackson County, or their respective designees, any time during business hours. A service fee of One Dollar (\$1.00) per item may be assessed the person from whom the precious metal or gem was acquired to offset the cost of making and maintaining the record of acquisition and statement of ownership.

SEC. 5.15.006. SALE OR DISPOSAL PROHIBITED FOR 10 DAYS.

A. It shall be unlawful for any dealer in secondhand precious metals and gems to sell, trade, transfer, melt down or in any way dispose of, alter or destroy any precious metal or gem, except as provided in Section 5.15.006(B), until ten days after the date of its acquisition.

B. The prohibition on sale or disposal of secondhand precious metals and gems does not apply to ingots acquired for their metallic content.

SEC. 5.15.007. PURCHASES PROHIBITED.

A. No dealer in secondhand precious metals or gems shall directly or indirectly purchase any stolen property or any precious metals or gems which that dealer has any reason or cause to believe cannot be rightfully or lawfully disposed of by the person offering it.

B. No dealer in secondhand precious metals and gems shall purchase or trade any precious metal or gem from any individual under the age of 18 years.

SEC. 5.15.008. EXCEPTIONS.

The provisions of this Article shall not apply to the following:

A. Transactions between one licensed, established dealer in the normal course of business and another licensed established dealer.

B. Any precious metal or gem dealer, at least 90% of whose gross income is derived from the sale of newly manufactured merchandise and who certifies this to the License Officer upon the enactment of this Article and thereafter whenever a retail occupational license shall be obtained or renewed.

C. Estates purchased through banks, attorneys or at auction or estate sales.

D. Out-of-state purchases transacted through the United States mail.

E. Industrial residue or by-products purchased from manufacturing firms.

F. Coins which are not currently in circulation, purchased for their numismatic value.

G. Monetized bullion including Krugerrands, Canadian Maple Leaf, Mexican 500 Pesos and United States Silver and Gold coins.

H. Transactions between a dealer in secondhand precious metals and gems and any customer wherein the precious metal or gem is exchanged for, or the value applied to, the acquisition price of other merchandise, provided that no cash, check, money order, cashier's check or other negotiable instrument is paid to the customer by the dealer in secondhand precious metals and gems and provided the price of the merchandise acquired by to the customer is at least One Hundred Dollars (\$100.00) in excess of the credit provided to the customer for the customer's precious metal or precious gems taken in trade.

SEC. 5.15.009 - 5.15.999 RESERVED.

ARTICLE 16. CARNIVAL AND CIRCUS AMUSEMENT RIDES AND DEVICES

SEC. 5.16.001. CARNIVAL AND CIRCUS AMUSEMENT RIDE PERMIT REQUIRED.

In addition to the requirements for a license under Article 4 of this chapter, any person, firm or corporation wishing to establish, set up, maintain, exhibit, conduct or carry on in the City of Independence any carnival, circus, fair, ferris wheel, merry-go-round, traveling show, or other similar or related type of amusement place, at which amusement rides are offered must meet the requirements of this Article.

SEC. 5.16.002. PUBLIC LIABILITY INSURANCE REQUIRED.

A. Before any license as provided by Article 4 shall be issued to an applicant for a commercial or promotion amusement activity at which amusement rides are offered, such applicant shall procure public liability insurance with the following coverage, rather than that provided in Sec. 5.04.005:

1. For bodily injury to or death of any one person in the amount of not less than Three Hundred Thousand Dollars (\$300,000).
2. For any one accident in the amount of Eight Hundred Thousand Dollars (\$800,000).
3. For damage to the property of another person in the amount of not less than Fifty Thousand Dollars (\$50,000) for any one accident.

B. The other requirements of Sec. 5.04.005 shall apply.

SEC. 5.16.003. HOURS OF OPERATION.

No amusement activity regulated by this Article shall operate between 12:00 o'clock A.M. (Midnight) and 8:00 o'clock A.M. of the following morning. The City Manager may further restrict the hours of operation of any amusement activity if such restriction is deemed necessary to protect surrounding residential areas.

SEC. 5.16.004. OPERATION ON PUBLIC STREETS PROHIBITED.

No amusement activity, or any equipment used in connection therewith, shall be operated or be located upon a public street or alley, except that a parade operating under specific authority from the City, in accordance with all terms and conditions of any permit granted for the same, may operate on public streets and alleys according to the terms of such permit.

SEC. 5.16.005. ILLUMINATION OF AMUSEMENT AREA.

All lights and illumination of an amusement activity regulated hereby, including facilities, equipment and rides, shall be arranged so as to reflect the light and glare away from any adjacent residential properties.

SEC. 5.16.006. SOUND AMPLIFYING EQUIPMENT.

All sound amplifying equipment used in conjunction with any amusement activity regulated hereby shall comply with the following regulations:

A. The only sounds permitted are music and human speech.

B. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

C. The operation of such sound amplification equipment shall comply with the requirements and regulations of Article 10 of Chapter 7 of the "Code of the City of Independence".

SEC. 5.16.007. GROUND COVER.

All areas or parcels of land used for any amusement activity regulated hereby, including off-street parking areas, shall be either paved with a permanent paving material, such as portland cement concrete or asphaltic concrete, or be treated with some type of temporary ground cover, such as oil, wood chips or gravel, in order to inhibit dust. In order to insure that adjoining areas are adequately protected from such dust, the City Manager may prescribe the type of ground cover to be used, taking into account such things as the type of amusement activity, the type of area being used, its proximity to other areas, and the length of time for which the permit is issued.

SEC. 5.16.008. OFF-STREET PARKING.

As part of the determination as to whether the proposed location of an amusement activity is suitable or not, the City Manager shall take into account the availability of off-street parking areas to accommodate the automobiles which can reasonably be anticipated in connection with the amusement activity for which an application has been made. If the City Manager determines that the amount of off-street parking area available adjacent to and in the immediate vicinity of the proposed location of the amusement activity is inadequate, she/he may disapprove the application in whole or in part. In making this determination, the City Manager shall take into account such things as the size of the amusement activity, the hours of operation, the type of uses in the vicinity and the availability of on-street parking.

SEC. 5.16.009. HEALTH AND SANITATION.

The amusement activity and each portion thereof, shall conform to the health and sanitation requirements established by the City Health Director, and by applicable State and City laws.

SEC. 5.16.010. BUILDING AND FIRE CODES.

All amusement activities shall comply with the Building and Fire Codes and ordinances of the City of Independence. Upon request, permittees shall furnish proof to the City of Independence that all equipment, rides, tents and structures utilized in connection with any amusement activity have been inspected and are in compliance with applicable State and City laws and regulations, and shall cooperate with the inspection thereof by local police, fire, building, health or other public officials and personnel.

SEC. 5.16.011. CLEANING AREA.

Any person granted a permit to conduct or carry on an amusement activity regulated hereby shall be responsible for keeping the area or parcel of land used for the amusement activity including off-street parking areas, free and clear of all rubbish, waste matter and debris during the time such amusement activity is carried on or conducted.

SEC. 5.16.012. BOND REQUIRED.

In order to insure that all areas used for amusement activities are kept free and clear of all rubbish, waste matter and debris and are properly cleaned up and cleared of all such material at the termination of the amusement activity, every applicant for a permit, except those noted below, shall file with the Director of Finance a cash bond or other security approved as to form by the City Counselor in the sum of One Hundred and NO/100 Dollars (\$100.00). Said bond shall be conditioned upon the permittee completely cleaning up and clearing the amusement area, including any off-street parking area, of any rubbish, waste matter and debris. Exceptions: Applicants for permits who are entitled to an exemption from the Application Fee, pursuant to Section 5.04.008 hereof, shall not be required to furnish the bond required by this section.

SEC. 5.16.013. REVOCATION OR SUSPENSION OF PERMIT.

Any permit issued under the terms of this Article may be suspended or revoked by the City Manager when it shall appear to the City Manager that the business or occupation, or the doing or performance of the act for which the permit was granted, is conducted, maintained, done or performed contrary to the application hereinbefore described, or in violation of any law of the State of Missouri or ordinance of the City of Independence, or is conducted, maintained, performed or done so as to constitute a nuisance or disturb the peace of persons in the vicinity or public peace, health or welfare.

SEC. 5.16.014. APPEALS.

Any person, firm or corporation aggrieved by the action of the City Manager in approving or denying an application for exemption from the Application Fee, in approving or disapproving the issuance of a permit, or in revoking or suspending or refusing to revoke or suspend any permit, may, within five (5) days after such action, appeal to the Council of the City of Independence by filing a written notice thereof with the City Clerk. The Council shall then review the determination or decision of the City Manager in the matter appealed from and may approve, disapprove or modify such determination or decision. The action of the Council herein shall be final and conclusive.

SEC. 5.16.015 - 5.16.999 RESERVED.

ARTICLE 17. ADULT ENTERTAINMENT BUSINESSES

SEC. 5.17.001. APPLICATION OF OTHER PROVISIONS.

The licenses provided for in this Article are subject to the general provisions of this chapter. In the event of a conflict between the provisions of this Article and other parts of this chapter or Code, the provisions of this Article shall control.

The licenses required by this Article shall be in addition to any other licenses required by this Code.

SEC. 5.17.002. DEFINITIONS.

For purposes of this Article and unless the context plainly requires otherwise, the following definitions are adopted:

ADULT BOOKSTORE is an establishment having as a ten percent (10%) portion of its stock in trade, books, photographs, magazines, films or videos for sale or viewing on the premises by use of motion picture devices or by use of the electronic transmission or retransmission of a picture, or other coin operated means, or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities as said term is defined herein.

ADULT CABARET is an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, into a viewing area which is designed for occupancy by more than five (5) persons, any live exhibition, performance or dance by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified

ADULT ENTERTAINMENT ARCADE is an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, into a viewing area which is designed for occupancy by no more than five (5) persons, any live exhibition, performance or dance of any type by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

ADULT ENTERTAINMENT FACILITY is any building, structure or facility which contains or is used for commercial entertainment, including adult bookstores, modeling studios, theaters used for presenting live presentations, or for presenting videotapes, films or the electronic transmission or retransmission of a picture predominantly distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to specified sexual activities, as said term is defined herein, and including adult cabaret facilities, and adult entertainment arcades (regardless of whether the theater, facility or arcade provides a live presentation, videotape; film presentation or the electronic transmission or retransmission of a picture), where the customers observe any live presentation, videotape or film presentation or the electronic transmission or retransmission of a picture of persons wholly or partially nude with their genitals or pubic region exposed or covered only with transparent covering or, in the case of female persons, with the areola and nipple of the breast exposed or covered only with transparent covering, or observe specified sexual activities, as said term is defined herein.

ADULT ENTERTAINMENT FACILITY PREMISES is the bounds of the enclosure of an adult entertainment facility that is licensed, or part of which is licensed, as an adult entertainment business.

CUSTOMER is any person who:

1. Is allowed to enter an adult entertainment facility in return for the payment of an admission fee or any other form of consideration or gratuity; or
2. Enters an adult entertainment facility and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
3. Is a member of and on the premises of an adult entertainment facility operating as a private club.

DIRECTOR is the Director of Finance of the City of Independence, Missouri, or designee.

EMPLOYEE is any person who renders any service whatsoever to the customers of an adult entertainment facility or who works in or about an adult entertainment facility and who receives compensation for such service or work from the operator or owner of the facility or from the customers therein. "Employee" includes managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult entertainment facility.

ENTERTAINER is any person who provides adult entertainment within an adult entertainment facility as defined in this section, whether or not a fee is charged or accepted for entertainment.

ENTERTAINMENT is any exhibition or dance of any type, pantomime, modeling or any other performance.

MANAGER is any person who manages, directs, administers, or is in charge of, the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment facility.

MODELING STUDIO is an establishment or business which provides for a fee or compensation the services of modeling on premises for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. This does not apply to public or private schools wherever persons are enrolled in a class.

OPERATOR is any person operating, conducting or maintaining an adult entertainment business.

OWNER OR OWNERS is or are the proprietor, if a sole proprietorship; all partners (general and limited), if a partnership; or all officers, directors, and persons holding ten percent (10%) or more of the outstanding shares, if a corporation.

PERSON is any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group or persons however organized.

PUBLIC PLACE is any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

SPECIFIED ANATOMICAL AREAS:

1. Less than completely and opaquely covered:
 - a. Human genitals, pubic region or pubic hair; or
 - b. Buttock; or
 - c. Female breast or breasts below a point immediately above the top of the areola; or
 - d. Any combination of the foregoing; or,
2. Human male genitals in a discernibly erect state, even if completely and opaquely covered.

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

VIEWING AREA is the area where a customer or member would ordinarily be positioned while watching an exhibition, performance or dance.

SEC. 5.17.003. ADULT ENTERTAINMENT BUSINESS LICENSE.

A. It shall be unlawful for any person to operate or maintain an adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio in the City unless the owner, operator or lessee thereof has obtained from the Director a license to do so, to be designated in "adult entertainment business license", or to operate such business after such license has been revoked, or while such license is suspended.

B. It shall be unlawful for any entertainer, employee or manager to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio.

C. It shall be prima facie evidence that any adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio that fails to have posted, in the manner required by this Article, an adult entertainment facility license, has not obtained such license. It shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio in which a license is not posted, in the manner required by this Article, had knowledge that such business was not licensed.

SEC. 5.17.004. ADULT ENTERTAINMENT PERMIT FOR MANAGERS AND ENTERTAINERS.

It shall be unlawful for any person to work as an entertainer or manager at an adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio without having first obtained from the Director a permit to do so, to be designated as an "adult entertainer's permit", or an "adult entertainment manager's permit", respectively, or to work as an entertainer or manager at such business after such person's permit has been revoked, or while such person's permit is suspended.

SEC. 5.17.005. LICENSES AND PERMITS - CLASSIFICATION AND FEES.

A. The license or permit year shall be from each January 1 through December 31. The application for a license or permit shall be accompanied by payment in full of the fee stated in this chapter, by certified or cashiers check or money order, and no application shall be considered complete until such fee is paid. Such fee shall not be refunded under any circumstances.

B. The classification of licenses for an adult entertainment business shall be as follows:

1. Adult bookstore license
2. Adult cabaret license
3. Adult entertainment arcade license
4. Modeling studio license

The classification of permits for an adult entertainment business shall be as follows:

1. Adult entertainment manager's permit
2. Adult entertainer's permit

SEC. 5.17.006. LICENSE OR PERMIT APPLICATIONS.

A. Adult Entertainment Facility License. All applications for an adult entertainment business license shall be submitted in the name of the person proposing to conduct or operate such adult entertainment on the premises and shall be signed by such person and notarized. All applications shall be submitted on a form supplied by the Director, and shall require the following information:

1. The name, residence address, home telephone number, date and place of birth; and social security number of the applicant;
2. The business name, address and telephone number of the establishment;
3. The names, residence addresses, residence telephone numbers, social security numbers and dates of births of any partners, if the applicant is a partnership; or if the applicant is a corporation, of all corporate officers and directors;
4. If the applicant is a corporation, such information as the Director, by rule, may require concerning the identity of corporate shareholders having a ten percent (10%) or greater interest in the corporation;
5. Addresses of the applicant, or of any partner, or of all corporate officers and directors; for the five (5) years immediately prior to the date of application;
6. A description of the adult entertainment or similar business history of the applicant, or of any partner, or of all corporate officers and directors; whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;
7. A description of the business, occupation, or employment of the applicant, or of any partner, or of all corporate officers and directors; for the three (3) years immediately preceding the date of application;
8. A statement from the applicant; or from each partner; or from each corporate officer and director; that each such person has not been convicted of, or released from confinement for conviction of, any felon, misdemeanor or municipal ordinance violation listed in Section 5.007(A), during the respective time periods provided in that section;
9. A full set of fingerprints and a photograph, to be taken by the Director, of the applicant, or of all partners, or of all corporate officers and directors;

10. If the applicant is a corporation, a current certificate of good standing issued by the Missouri Secretary of State.

Failure to provide information required by this subsection shall constitute an incomplete application and shall not be processed.

B. Manager's or Entertainer's Permit. All applications for an adult entertainment manager's permit or adult entertainer's permit shall be signed by the applicant and notarized. All applications shall be submitted on a form supplied by the Director and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining;
2. The name and address of each business at which the applicant intends to work as a manager or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this Article;
3. A statement from the applicant that he or she has not been convicted of, or released from confinement for conviction of, any felony, misdemeanor or municipal ordinance violation listed in Section 5.007(B), during the respective time periods provided in that section;
4. A full set of fingerprints and a photograph, to be taken by the Director, of the applicant;
5. The applicant shall present documentation that he or she has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,
 - b. A state-issued identification card bearing the applicant's photograph and date of birth,
 - c. An official passport issued by the United States of America,
 - d. An immigration card issued by the United States of America,
 - e. Any other picture identification issued by a governmental entity, or
 - f. Such other form of identification as the Director deems, by rule, to be acceptable;

Failure to provide information required by this subsection shall constitute an incomplete application and shall not be processed.

SEC. 5.17.007. ISSUANCE OF LICENSES OR PERMITS - FINDINGS.

A. After an investigation, the Director shall issue the applicable license authorized by this Article if the Director finds:

1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, as well as the requirements of this chapter;
2. That the applicant, or any of his, her or its employees, agents, partners, directors, officers, stockholders or managers has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the Director (as part of the original license application or application for renewal thereof);

3. That the applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have attained the age of eighteen (18) years;
4. That the applicant, or any partner, or any corporate officer or director; has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or controlled substance or illegal drugs or narcotics offenses, as described in the Missouri Comprehensive Drug Control Act, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.
5. That the applicant; or any partner, or any corporate officer or director, has not had a license or permit issued under the provisions of this Article revoked within five (5) years immediately preceding the application.

B. After an investigation, the Director shall issue any applicable permit authorized by this Article if the Director finds:

1. That the applicant has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in the providing of documentation of age (as part of the original permit application or application for renewal thereof);
2. That the applicant, has attained the age of eighteen (18) years;
3. That the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or controlled substance or illegal drugs or narcotics offenses, as described in the Missouri Comprehensive Drug Control Act, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.
4. That the applicant has not had a license or permit issued under the provisions of this Article revoked within five (5) years immediately preceding the application.

SEC. 5.17.008. ISSUANCE OF LICENSES OR PERMIT - TIME.

A. The license application for an adult entertainment business shall be approved or disapproved within thirty (30) days from the date of filing a completed application which complies with the requirements of this Article, unless the applicant agrees in writing to an extension of such time period. It shall be the duty of the applicant to request, in writing, confirmation of zoning, building codes, fire, health, and

property maintenance ordinance compliance from the appropriate City departments, and the application shall not be considered complete until such requests are made. The response to such requests, confirming compliance or otherwise, shall be made in writing to the Director no more than twenty (20) days after receipt of the request. It shall be the duty of the Director to request criminal records and to investigate other information required by the license application. If a license application is disapproved, the Director shall notify the applicant in person or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.

B. The application for a manager's or entertainer's permit shall be approved or disapproved within thirty (30) days from the date of filing a completed application which complies with the requirements of this Article, unless the applicant agrees in writing to an extension of such time period. Pending the approval or disapproval of a completed permit application, the manager or entertainer shall be provided a temporary permit to be a manager or entertainer. Such permit shall automatically expire and become null and void upon the approval or disapproval of a permit. Any manager or entertainer issued a temporary permit shall comply with the provisions of this Article and such permit shall be withdrawn by the Director in the event the permittee violates any provisions of this Article. Additionally, any manager or entertainer issued a temporary permit shall be subject to the penalty provisions provided in this Article. It shall be the duty of the Director to request criminal records and to investigate other information required by the permit application. If a permit application is disapproved, the Director shall notify the applicant, in person, or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.

C. Any applicant aggrieved by the refusal of the Director to issue a license or permit under the provisions of this Article may seek judicial review in a manner provided by law.

SEC. 5.17.009. COMPLIANCE WITH OTHER CITY ORDINANCES REQUIRED.

It shall be the duty of an adult entertainment facility licensee to comply with the building codes, zoning, fire, health and property maintenance ordinances of the City and with regulations of such departments of the City. Knowing failure to continue compliance with such ordinances or regulations may be a basis for suspension, revocation, or non-renewal of the license.

SEC. 5.17.010. SPECIAL CONDITIONS

A. No adult entertainment facility shall be permitted within one thousand two hundred feet (1,200') of any religious institution, school, or public park or any property zoned for residential use. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment facility to the closest property line of the religious institution, school, or public park, or the property zoned for residential use.

B. No adult entertainment facility shall be allowed to locate or expand within one thousand feet (1,000') of any other adult entertainment facility, bathhouse, massage shop, or of any business licensed to sell or serve alcoholic beverages. The distance between any two (2) adult entertainment facility, bathhouse, massage shop, or between an adult entertainment facility or a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.

C. The adult entertainment facility in which such a use is located shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per linear foot of wall length, not to exceed a total of fifty (50) square feet; said sign shall not flash; blink or move by mechanical means and shall not extend above the roof line of the building. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted.

D. Lighting the parking area must provide a minimum light level of 0.25 footcandles over the entire parking area. In no point shall the light level exceed 3.0 footcandles, nor shall any increase in light levels or visible glare be permitted at the lot line.

SEC. 5.17.011. STANDARDS OF CONDUCT AND OPERATION - ADULT ARCADE.

A. The following standards of conduct must be adhered to by employees of any adult entertainment arcade while on the adult entertainment facility premises:

1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area.
2. No employee or entertainer shall perform:
 - a. Specified sexual activities; or
 - b. The displaying of specified anatomical area, except as provided for in subdivision 1 of this subsection.
3. No employee or entertainer who is either not separated from any and all customers as provided in subdivision 1 of this subsection, or in an area of the premises not open to customers, shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection.
4. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.
5. No entertainer of any adult arcade shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.
6. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this Article.
7. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in subdivision 1 of this subsection.

B. At any adult entertainer arcade, the following are required:

1. A sign, on which upper-case letters shall be at least two inches (2") high, and lower-case letters shall be at least one inch (1") high, shall be conspicuously displayed in the common area at the principal entrance to the adult entertainer arcade and shall read as follows:

THIS ADULT ENTERTAINMENT
FACILITY IS REGULATED
BY THE CITY OF INDEPENDENCE
ENTERTAINERS ARE:

- a. Not permitted to engage in any type of sexual conduct on the premises, or in prostitution;
- b. Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, any portion of the pubic region, buttocks, and/or genitals, except when separated from customers by a window or partition between the entertainer and customers.

C. Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.

- 1. Neither any entertainment, nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.
- 2. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

SEC. 5.17.012. STANDARDS OF CONDUCT AND OPERATION - ADULT CABARET.

A. The following standards of conduct must be adhered to by employees of any adult cabaret while on the adult entertainment facility premises:

- 1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, unless separated at least six feet (6') from the nearest customer and upon a stage at least eighteen inches (18") above the immediate floor level.
- 2. No employee or entertainer shall perform:
 - a. Specified sexual activities; or
 - b. The displaying of any specified anatomical area; except as provided for in subdivision 1 of this subsection.
- 3. No employee or entertainer who is not separated from any and all customers as provided in subdivision 1 of this subsection shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection, except in an area of the premises not open to customers.

4. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

5. No employee or entertainer shall wear or use any device or covering exposed to view which simulates any anatomical area.

6. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

7. No entertainer of any adult cabaret shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.

8. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this Article.

9. No entertainer shall receive any payment or gratuity from any customer for entertainment.

B. At any adult cabaret, the following are required:

1. A sign, on which upper-case letters shall be at least two inches (2") high, and lower-case letters shall be at least one inch (1") high, shall be conspicuously displayed in the common area at the principal entrance of the premises, and shall read as follows:

THIS ADULT ENTERTAINMENT
FACILITY IS REGULATED
BY THE CITY OF INDEPENDENCE
ENTERTAINERS ARE:

- a. Not permitted to engage in any type of sexual conduct on the premises, or in prostitution;
- b. Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, any portion of the pubic region, buttocks, and/or genitals, unless separated at least six feet (6') from the nearest customer and upon a stage at least eighteen inches (18") from the immediate floor level; and
- c. Not permitted to demand or collect any payment or gratuity from any customer for entertainment.

2. Neither any entertainment, nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

3. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

SEC. 5.17.013. STANDARDS OF CONDUCT AND OPERATION - ALL ADULT ENTERTAINMENT FACILITIES.

It shall be unlawful for:

1. Any person under the age of eighteen (18) years to be in or upon any premises for which an adult entertainment facility license is required.
2. Any owner, operator, manager, or other person in charge of a premises for which an adult entertainment facility license is required, to
 - a. knowingly permit or allow any person under the age of eighteen (18) years to be in or upon such premises,
 - b. knowingly allow, sell, or permit alcoholic beverages, as defined in Chapter 2, to be brought onto or consumed on the premises,
 - c. knowingly allow or permit the sale, distribution, or delivery of any controlled substance or illegal drug or narcotic on the premises,
 - d. knowingly allow or permit any act of prostitution, or patronizing prostitution, on the premises.

SEC. 5.17.014. LICENSE OR PERMIT - POSTING AND DISPLAY.

A. Every adult entertainer or adult entertainment manager shall post his or her permit in his or her work area on the licensed premises so it is readily available for inspection by City authorities responsible for enforcement of this Article or chapter. If the permit is a temporary permit, the form of identification presented as part of the application for such permit shall be stated by the Director on the face of such permit, and such identification must be on file with the adult entertainment manager on duty at any time such temporary permittee shall be working on the premises.

B. Every person, corporation, partnership, or association licensed under this Article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.

SEC. 5.17.015. MANAGER ON PREMISES.

A. An adult entertainment manager shall be on duty at an adult entertainment business at all times adult entertainment is being provided or that customers are on the premises. The name of the manager on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's permit, and that such permit is posted in the manner required by this Article.

SEC. 5.17.016. HOURS OF OPERATION.

It is unlawful for any adult cabaret to be conducted, operated, or otherwise open to the public, customers or members between the hours of one a.m. (1:00 a.m.) and six a.m. (6:00 a.m.).

SEC. 5.17.017. INSPECTORS AND INSPECTIONS.

The Director is hereby empowered to appoint inspectors of adult entertainment businesses and all such businesses shall be open to the inspections of the Director or inspectors so appointed or to any member of the Police Department at any time during the hours allowed for business and at other reasonable times.

SEC. 5.17.018. SUSPENSION, REVOCATION, OR NON-RENEWAL - LICENSE.

Whenever the Director has information that:

1. The owner or operator of an adult entertainment business has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Article, or
2. There have been recurrent violations of provisions of this Article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed; or
3. The adult entertainment business license was obtained through false statements in the application for such license or permit, or renewal thereof; or
4. The adult entertainment business licensee failed to make a complete disclosure of all information in the application for such license or permit, or renewal thereof;
5. The owner or operator, or any partner, or any corporate officer or director, has become disqualified from having a license by a conviction as provided in Section 5.17.008.

then the Director shall hold a hearing in the manner provided in this Article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last-known address. In the event that the Director is not able to serve notice upon the licensee in person, and any notice sent by mail is returned by the postal service, the Director shall cause such notice to be posted at the principal entrance of the adult entertainment business or facility, and such posting shall be a valid means of service. If the Director finds and concludes from the evidence that licensee has violated any of the above provisions, the Director may suspend, for a period not to exceed ninety (90) days, or revoke the license issued hereunder, or in the case of a renewal application, refuse to renew such license.

SEC. 5.17.019. SUSPENSION, REVOCATION, OR NON-RENEWAL - PERMIT.

Whenever the Director has information that:

1. An adult entertainment manager has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Article; or
2. While acting as an adult entertainment manager, there have been recurrent violations of provisions of this Article that such adult entertainment manager knew or should have known that such violations were committed; or
3. An adult entertainer has violated any of the provisions of this Article; or
4. A permit received by any person under the provisions of this Article was obtained through false statements in the application for such permit, or renewal thereof, or
5. A permittee under the provisions of this Article failed to make a complete disclosure of all information in the application for such permit, or renewal thereof; or
6. A permittee has become disqualified from having a permit by a conviction as provided in Section 5.17.008;

then the Director shall hold a hearing in the manner provided in this Article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the permittee and shall be served upon the permittee in person or by registered or certified mail to the permittee's last-known address. If the Director finds and concludes from the evidence that the permittee has violated any of the above provisions, the Director may suspend, for a period not to exceed ninety (90) days, or revoke the permit issued hereunder, or in the case of a renewal application, refuse to renew such permit.

SEC. 5.17.020. HEARING PROCEDURE.

A. In any instance in this Article wherein a hearing is required, the Director shall, after no less than ten (10) days written notice to the applicant, licensee or permittee, hold such hearing to ascertain all facts in the matter.

B. An applicant, or licensee, or permittee shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross-examine all witnesses who appear against him or her. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The Director may receive evidence relevant to the issues from the applicant, licensee or from other sources. Witnesses may be subpoenaed, and upon request of any party, the Director shall issue subpoenas, and in a proper case, subpoenas duces tecum, which shall be served and returned as in civil actions in the circuit court.

C. The Director shall issue findings of fact and conclusions of law, and an order wherein he or she dismiss the complaint, or suspend or revoke a license or permit, previously issued, or renew or refuse to renew a license or permit previously issued. The Director's order shall be served upon the applicant or licensee, or permittee in person or by registered or certified mail to the applicant's, or licensee's, or permittee's last-known address. In the event that the Director is not able to serve such order upon the licensee; or applicant for renewal license, in the manner stated above, such order may be served in the manner provided in Section 5.17.018.

SEC. 5.17.021. RENEWAL.

A. A license or permit may be renewed by making application to the Director on application forms provided for that purpose. Licenses and permits shall expire on December 31 of each calendar year, and renewal applications for such licenses or permits shall be submitted between December 16 and December 31.

B. Upon timely application therefore, a license issued under the provisions of this Article shall be renewed by issuance of a new license in the manner provided by Sections 5.17.007 and 5.17.008, unless the Director disapproves such renewal application in the manner provided by Section 5.17.018. However, an applicant for a renewal license shall have no duty to request confirmation of compliance with other City ordinances as required in Section 5.17.008, and no inspections by other City departments shall be required unless requested by the Director.

C. Upon timely application therefore, a permit issued under the provisions of this Article shall be renewed by issuance of a new permit in the manner provided by Sections 5.17.007 and 5.17.008, unless the Director disapproves such renewal application in the manner provided by Section 5.17.019.

D. Upon the filing of a timely application for renewal of a license or permit issued under the provisions of this Article, the Director shall issue a temporary license or permit to the applicant, which temporary license or permit shall remain in effect until the Director has approved the application. If a hearing is held as required by Section 5.17.018 or Section 5.17.019, the temporary license or permit shall remain in

effect until the Director has issued an order following such hearing. However, if the hearing required by Section 5.17.018 or Section 5.17.019 is delayed at the request of the applicant, the temporary license or permit issued under the provisions of this subsection shall expire as of the date such hearing was scheduled by the Director, unless the applicant shows good cause for such delay.

E. Any applicant issued a temporary license or permit under the provisions of this section shall comply, or continue to comply, with the provisions of this Article. Additionally, an applicant issued a temporary license or permit under the provisions of this section shall be subject to the penalty provisions provided in this Article.

F. If the application for renewal of a license or permit is not made during the time provided in subsection "A" of this section, the expiration of such license or permit shall not be affected, and a new application shall be required.

SEC. 5.17.022. JUDICIAL REVIEW - STAY OF ENFORCEMENT OF ORDERS.

Following the entry of an order by the Director suspending or revoking a license or permit, or disapproving the renewal application for a license or permit, such licensee, permittee or applicant may seek judicial review in a manner provided by law. The Director may stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

SEC. 5.17.023. INFORMAL DISPOSITION OF CASE.

Nothing contained in this Article shall preclude the informal disposition of contested cases by stipulation, consent order, or default, or by agreed settlement.

SEC. 5.17.024. PENALTY.

It shall be unlawful for any person to own or operate an adult entertainment business as defined in this Article without having secured a license as provided herein, or to violate any of the other provisions of this Article. Upon conviction thereof, such person shall be fined not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00), or be punished by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Article shall constitute a separate and distinct offense.

SEC. 5.17.025. REGULATIONS.

The Director shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his or her office and which are not inconsistent with the provisions of this Article.

SEC. 5.17.026 - 5.17.999 RESERVED.

ARTICLE 18. NEW CONSTRUCTION LICENSE SURCHARGE

SEC. 5.18.001. FINDINGS.

The City Council of the City of Independence (hereinafter the "Council") finds and declares that:

1. During the 1990's, the City of Independence, Missouri experienced population growth and substantial land development and a corresponding increase in the volume of traffic utilizing City streets;
2. The Independence Comprehensive Plan, as amended, the current experience of the City and a professional market analysis, indicate that such growth and development within the City will continue into the twenty-first century;
3. New growth and development in the City has resulted, and will continue to result in increased use, burden and demand on the existing streets of the City, and the need for new streets to add capacity and to complete the street network needed for full build-out of the City;
4. The City assumes the responsibility for, and is committed to, generating revenue for the design, construction, and reconstruction of adequate streets and bridges necessary to serve the population of the City through all legally available revenue sources;
5. The Council has considered generating the needed revenue by imposing an excise tax in the form of a license surcharge on building contractors to be paid by development that generates new traffic in the City;
6. The Council finds and declares that it is in the public interest to impose an excise tax in the form of a license surcharge on building contractors who construct buildings and improvements that generate new traffic for the purpose of generating revenue, and that this is a fair way to allocate the cost of necessary street network improvements to the new development that creates the need for such improvements; and
7. The Council has determined that the most fair, equitable and uniform method to calculate the license surcharge is to base it on the number of trips generated by the development during the afternoon time period (p.m. peak hour) when traffic volume on the adjacent streets is highest.

SEC. 5.18.002. PURPOSE AND INTENT.

A. The purpose of this Article is to generate revenue, which shall be used to pay for streets throughout the City, including, but not limited to, the design, construction, and reconstruction of streets, bridges and related improvements in the City and the acquisition of all necessary rights-of-way, through the imposition of a license surcharge on building contractors who construct buildings and improvements that generate new traffic, which license surcharge shall be imposed based on the additional vehicle trips generated by any development activity during the afternoon time period (p.m. peak hour) when traffic volume on the adjacent streets is highest.

B. By adoption of this Article, the City Council intends to:

1. Establish an administrative review and appeal procedure to ensure that the license surcharge shall be imposed and collected in accordance with this Article, the City Charter and all applicable laws.
2. Authorize the City Manager to create administrative guidelines to implement this Article.

3. Impose a license surcharge upon all building contractors that apply for a building permit for new development that results in additional vehicle trips.
4. Impose upon building contractors through this Article a license surcharge that is in addition to the annual business license tax paid by building contractors pursuant to Chapter 5, Article 1 of the City Code.
5. Empower the Street Improvement Oversight Committee to monitor the license surcharge and to make recommendations annually to the City Council regarding any amendments to this Article, administrative guidelines, the streets to be constructed from the license surcharge revenues, and any other matter related to the imposition, collection and use of the license surcharge proceeds.

C. By adoption of this Article, the City Council does not intend to impose a fee or other exaction pursuant to the general police powers of the City or to regulate construction, growth or development within the City.

SEC. 5.18.003. AUTHORITY.

In the creation of the license surcharge, the City is exercising its constitutional home rule power pursuant to Article VI, section 19(a) of the Constitution of the State of Missouri, including, but not limited to, the authority granted in Article 9 of the Charter of the City of Independence; and the authority granted in Article X, section 22 of the Constitution of the State of Missouri; and all other powers derived from the Constitution and the laws of the State of Missouri.

SEC. 5.18.004. DEFINITIONS.

As used in this Article:

AREA OF BUILDING means the total floor area of a building measured by square feet.

BUILDING means an enclosed structure anchored to a permanent foundation and having exterior or party walls and a roof, designed for the shelter of persons, animals, or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building.

BUILDING CONTRACTOR means a person that builds a building.

BUILDING PERMIT means the permit required for new construction and additions pursuant to the most recent version of the Uniform Building Code as adopted by Chapter 4, Article 5 of the Independence City Code, as amended.

CITY MANAGER means the City Manager or his or her designee.

DEVELOPER means a person who engages in development.

DEVELOPMENT means any man-made change to improved or unimproved land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

DEVELOPMENT AGREEMENT means any written agreement between the City and a developer.

DWELLING UNIT means one (1) or more rooms, constituting all or part of a building that are arranged, designed, or used exclusively as a single housekeeping unit for one (1) family, and that may include cooking, living, sanitation, and sleeping facilities.

EXCISE TAX CAPITAL IMPROVEMENTS PLAN means the map and associated tabular data showing streets to be improved by building contractor license surcharge revenues as adopted by the City Council.

IMPROVEMENT means any building, structure or facility constituting a physical addition to real property, the use of which generates one or more vehicle trips per day.

LICENSE SURCHARGE means the surcharge to the annual business license tax imposed upon a building contractor pursuant to Chapter 5, Article 1, of the City Code.

NON-RESIDENTIAL means created or used for any purpose other than residential uses or purposes.

PERSON means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

P.M. PEAK HOUR means the hours between 4:00 p.m. and 6:00 p.m. during the weekdays, Monday through and including Friday, at which the average traffic volume is highest.

PUBLIC BODY means agencies of the Federal or State government, or political subdivisions of the State.

REDEVELOPMENT means the demolition of one or more buildings on a platted lot(s) or tracts with subsequent improvements being made to the same lot or lots.

RESIDENTIAL means primarily created or used for a dwelling for one or more persons.

SCHOOL DISTRICT means a public school district of the State of Missouri.

STRUCTURE means anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, including but not limited to signs, but excepting pavements, utility poles, fences, and retaining walls.

VEHICLE TRIP means a single or one-direction vehicle movement with either the origin or the destination (exiting or entering) at the subject building. For trip generation purposes, the total trip ends for a building over a given period of time are the total of all trips entering plus all the trips exiting a site during a designated time period.

SEC. 5.18.005. APPLICABILITY.

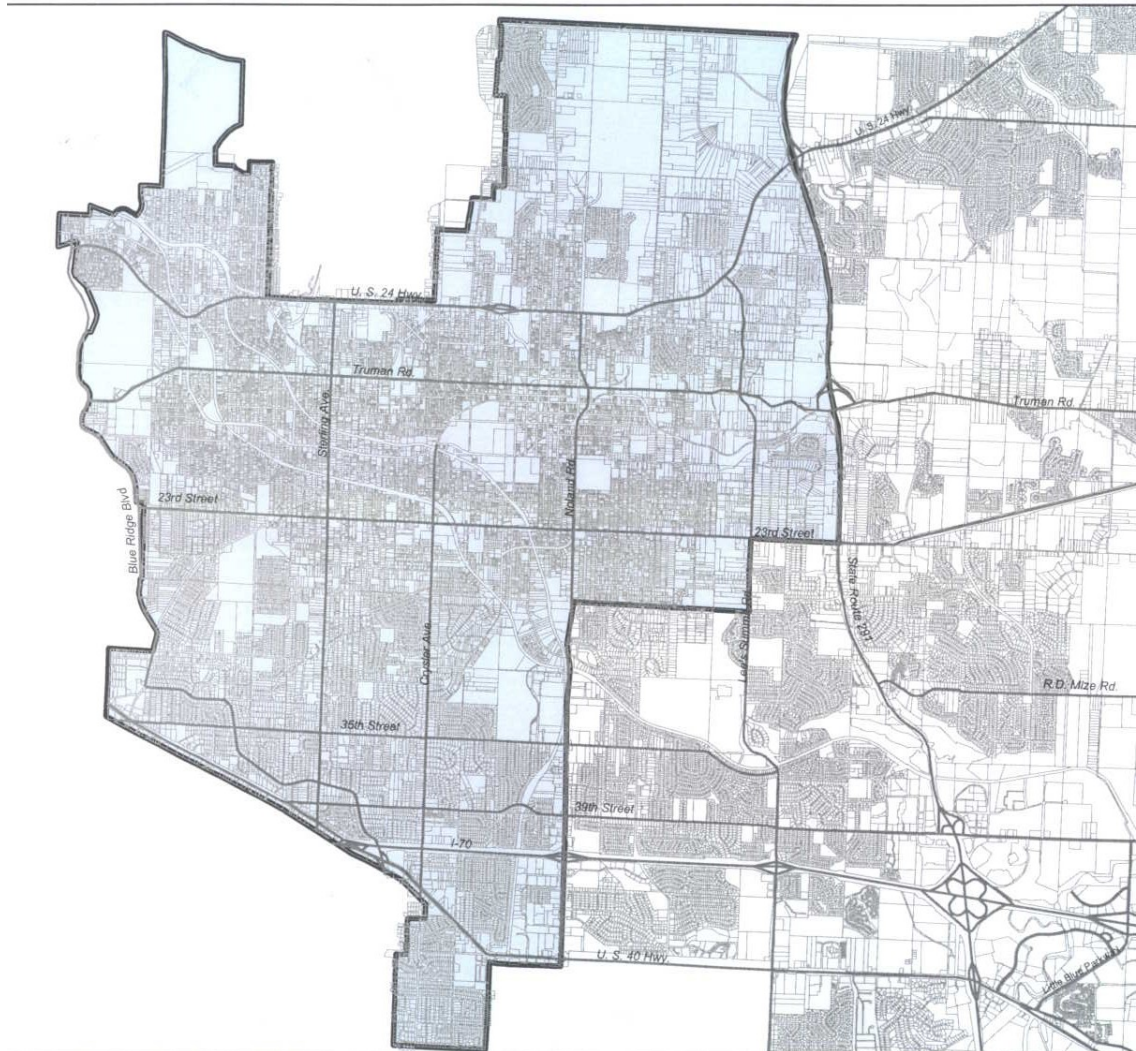
A. This Article shall apply to development or redevelopment requiring a building permit and resulting in additional vehicle trips. Additional vehicle trips shall be calculated during the afternoon time period (p.m. peak hour) when traffic volume on adjacent streets is highest. As used in this section, additional vehicle trips shall mean vehicle trips that add to the total traffic volume on City streets as a result of the new development or redevelopment.

B. Credits. Any credit granted under this Article shall reduce the total license surcharge owed by a building contractor.

1. Upon submission of a proper application, a building contractor shall be granted a full credit in the amount of the license surcharge imposed pursuant to this Article by the License Officer for:
 - a. Development or redevelopment on property owned by a public body for its governmental use, or by a building contractor on behalf of a public body for its governmental use, on property owned by the public body, that requires a building permit and results in additional vehicle trips;
 - b. Development of redevelopment on property owned by the school district of the State that requires a building permit and results in additional vehicle trips;
 - c. Rebuilding of an involuntarily damaged or destroyed building, provided that the rebuilding does not result in additional vehicle trips compared to the previous use and the rebuilding or replacement occurs no later than five (5) years after the involuntarily damaged or destroyed building;
 - d. Development or redevelopment that requires a building permit and results in additional vehicle trips, which is constructed by, or by a building contractor on behalf of, a person that has entered into a development agreement with the City, executed and dated prior to the enactment of this Article, provided that the development agreement contains:
 - (1) A specific clause that provides that the person shall not be required to make financial contributions for improvements to the City streets other than as specifically provided for in the development agreement; and
 - (2) A commitment by the person to construct or reconstruct, or provide a financial contribution for, street improvements in the City, (except such street improvements made utilizing funds pursuant to the Real Property Tax Increment Allocation Redevelopment Act, (Sections 99.800 to 99.865 R.S.Mo.) and which financial contributions and/or street improvements enhance the City's streets;
 - e. Development of a structure if: 1) the structure, its contents and the owner of the structure are not subject to any Federal, State or local taxes, including Federal, State and local sales, income, personal property, real property, use, earnings, excise or license taxes; 2) the owner is a not for profit housing agency; 3) the structure requires a building permit; and 4) the structure results in additional vehicle trips. The burden of proof shall be on the building contractor claiming this credit to demonstrate to the License Officer, by clear and convincing evidence, that the structure, its contents and the owner of the structure are exempt from all Federal, State and local taxes as described in this subsection;
 - f. On property which the City Council identified as being targeted for redevelopment or infill development as shown in Figure 1 of this Article and described as:

Beginning at the intersection of Gudgell Street and Noland Road, then proceeding east along the centerline of Gudgell Street projected to its intersection with Lee's Summit Road, then proceeding north along the centerline of Lee's Summit Road to the intersection of Lee's Summit Road and 23rd Street, then proceeding east along the centerline of 23rd Street to the intersection of 23rd Street and State Route 291, then proceeding north along the centerline of State Route 291 to the Corporate City Limits, then proceeding west and continuing to follow along the Corporate City limits to its intersection with the centerline of Noland Road, then proceeding north to the point of beginning.

Figure 1: Areas Eligible for Credit under Section 5.18.005.B.1.f



2. Upon submission of a proper application for a credit, a building contractor shall be granted a partial credit from the license surcharge imposed pursuant to this Article by the License Officer for:

- a. Utilization of a currently underutilized existing building or structure. As used in this subsection, underutilized means an existing building or structure which had been previously fully occupied but is not currently fully occupied or not being used to full capacity. The credit shall be granted only for the number of trips that were generated by the previously underutilized facility during the p.m. peak time period. The burden of proof shall be on the building contractor claiming this credit to demonstrate to the License Officer, by clear and convincing evidence, that the building or structure is underutilized;

b. Change of existing uses within an existing building or structure, except that a change of use from a residential use to a non-residential use shall not be granted a credit. The credit shall be granted only for the number of trips that were generated by the building during the p.m. peak time period prior to the change in use;

c. Redevelopment of property that is subject to the use of one or more public incentive programs including, but not limited to, the Real Property Tax Increment Allocation Redevelopment Act (sections 99.800 to 99.865 R.S.Mo.), the Urban Redevelopment Corporations Law (sections 353.010 to 353.190 R.S.Mo.), and the Land Clearance for Redevelopment Authority Law (sections 99.300 to 99.715 R.S.Mo.). A partial credit shall be granted only when such redevelopment results in the demolition of one or more buildings and the subsequent construction of one or more new buildings on the property and shall be granted only for the number of trips that were generated during the p.m. peak time period by the demolished building(s). The number of trips shall be determined by the use established, the most recently approved site plan, or the most recent use of the property if no site plan is on file with the City.

3. In the event that a building is transferred by a person who receives a credit to a person who would not be eligible for a credit under this Article, within a period of one (1) year from the date of the issuance of the building permit, the transferee shall be required to pay the license surcharge imposed by this Article, unless the credit was granted to a not-for-profit housing agency constructing housing for low and moderate income persons, or a school district constructing housing as part of an educational program.

SEC. 5.18.006. ASSESSMENT AND COLLECTION OF THE LICENSE TAX SURCHARGE.

A. Upon submission of a building permit application, the License Officer shall:

1. Determine the applicability of this Article to the development for which the building permit is submitted;
2. If this Article is not applicable, the License Officer shall notify the applicant in writing of its inapplicability, and the City shall process the building permit application in accordance with applicable City ordinances and regulations;
3. If this Article is applicable, the License Officer shall calculate and assess the license surcharge in accordance with this Article. The applicable license surcharge shall be calculated pursuant to Section 5.18.007. The calculation and assessment shall be completed within three (3) days of submission of a building permit application, unless the applicant is notified otherwise in writing by the License Officer.

B. The license surcharge shall be paid to the License Officer prior to issuance of a building permit by the Building Official; provided that the License Officer shall allow the applicant to delay the payment of the license surcharge until prior to the issuance of a Certificate of Occupancy, if the applicant submits a written request to do so to the License Office. In such instance no Certificate of Occupancy shall be issued by the Building Official until the license surcharge has been paid. Residential building permits will not be issued without a financial security acceptable to the City guaranteeing full payment of the license surcharge prior to issuance of a Certificate of Occupancy or any unauthorized occupancy of the structure.

C. The imposition of the license surcharge pursuant to this Article does not alter, negate, supersede or otherwise effect any City requirements applicable to a development, which impose street improvements, including, but not limited to, the City zoning ordinance and subdivision regulations, and County, State and Federal legislation or regulations.

D. The funds collected pursuant to this Article shall be deposited into a special account of the general fund of the City and used for the purposes specified in Section 5.18.002 of this Article.

E. The License Officer shall have the authority, upon written request of the applicant, to delay collection of the license surcharge for those structures that are shell buildings that are constructed for the purpose of speculative office development, until tenant finish building permits are issued.

SEC. 5.18.007. CALCULATION OF THE LICENSE TAX SURCHARGE.

The City shall calculate the license surcharge as follows:

1. The City Council shall by resolution establish the trip generation rates and the license surcharge rates used to calculate the license surcharge to be imposed upon building contractors. The license surcharge shall be calculated by multiplying the "trip generation rate" by the applicable "license surcharge rate" as further described in this section.
 2. Trip generation rate. The trip generation rate is a measurement of the number of trips to and from a building for which a building permit application is submitted.
 - a. The License Officer shall determine the trip generation rate for residential property by multiplying the number of dwelling units by the trip generation rate specified for the specific type of land use category.
 - b. The License Officer shall determine the trip generation rate for non-residential property by dividing the total floor area of the building, measured in square feet, by 1000, and then multiplying that number by the trip generation rate specified for the specific type of land use category.
- C. License Surcharge Rate. The license surcharge rate is a measurement of the rate of tax to be paid by building contractors according to land use classifications.

SEC. 5.18.008. ADMINISTRATION OF THIS ARTICLE.

A. The License Officer shall perform all duties imposed by this Article unless otherwise provided.

B. The City Manager shall have the authority to create administrative guidelines necessary to effectuate and carry out the intent and purposes of this Article. No administrative guidelines adopted pursuant to this Article shall take effect until authorized by resolution by the City Council.

SEC. 5.18.009. APPEALS.

A. Appeal to the Community Development Director.

1. A building contractor (hereinafter referred to in this section as "appellant") may appeal the assessment of a license surcharge to the Community Development Director by filing a Notice of Appeal with the Community Development Director within thirty (30) days following the assessment of the license surcharge by the License Officer. If an appellant fails to appeal the assessment of the license surcharge within thirty (30) days as set forth in this subsection, the assessment of the license surcharge shall be final and no appeal shall be heard. If the appellant pays the license surcharge without protest, the appellant shall have waived the right to appeal the assessment of the license surcharge.

2. If an appellant desires to process the building permit application during the appeal process, the appellant shall be required to pay the license surcharge under protest. If the license surcharge is paid under protest by the appellant, an appeal from a final decision of the Community Development Director shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.

3. An appellant may appeal the following decisions to the Community Development Director:

- a. The land use classification of the development;
- b. The number of trips generated by the proposed development;
- c. Any credit determination made pursuant to Section 5.18.005, B, of this Article.

4. Within ten (10) days of receipt of the notice of appeal, or by a date agreed upon in writing between the appellant and the City, the appellant shall submit to the Community Development Director copies of all studies, calculations and other evidence relevant to the determination of the license surcharge.

If a specified basis for the appeal is to challenge the License Officer's determination of the number of trips generated by the proposed development, the appellant may be required by the Community Development Director to submit a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 5.18.005, B, the appellant must submit to the Community Development Director proof that it is eligible for a credit and the extent of the credit.

5. The notice of appeal filed with the Community Development Director shall specify the grounds for the review. The Community Development Director shall consider the appeal. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that (a) the land use classification of the development is incorrect; (b) the number of trips generated by the development, as calculated by the License Officer, does not accurately reflect the number of trips that are reasonably expected to be generated by the development; or (c) the credit determination under Section 5.18.005, B, of this Article is incorrect.

6. Within thirty (30) days after filing of the notice of appeal, the Community Development Director shall render a final decision and shall give written notice of that decision to the appellant.

B. An appeal to the City Council may be heard only after the Community Development Director has made a final decision pursuant to subsection "A", of this section.

1. If an appellant desires to process the building permit after appeal is taken from the final decision of the Community Development Director, the appellant shall pay the adjusted license surcharge, if any, "under protest." If the license surcharge is paid under protest by the appellant, an appeal from a final decision of the Community Development Director shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.

2. An appellant may appeal the final decision of the Community Development Director to the City Council by filing a notice of appeal with the City Clerk within fifteen (15) days following issuance of the final written decision of the Community Development Director as specified in subsection "A", of this section. If an appellant fails to appeal the final decision of the Community Development Director within fifteen (15) days as set forth in this subsection, the assessment of the license surcharge shall be final and no appeal shall be heard.

3. An appellant may appeal the following decisions of the Community Development Director to the City Council:

- a. The land use classification of the development;
- b. The number of trips generated by the proposed development; or
- c. Any credit determination made pursuant to Section 5.18.005B of this Article.

4. Within thirty (30) days of receipt of the notice of appeal, or by a date agreed upon in writing between the appellant and the City, the appellant shall submit to the City Council copies of all studies, calculations and other evidence relevant to the determination of the license surcharge. If a specified basis for the appeal is to challenge the Community Development Director's determination of the number of trips generated by the proposed development, the appellant may be required by the City Council to submit to the City Council a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 5.18.005B of this Article, the appellant must submit to the City Council proof that it is eligible for a credit and the extent of the credit.

5. The notice of appeal shall specify the grounds for the appeal, and no argument shall be heard by the City Council that is not set forth in the notice of appeal. The notice of appeal shall be forwarded to the City Council along with a recommendation from the Community Development Director and the City Council shall conduct a hearing. The appellant shall receive notice of the hearing by certified mail at least fifteen (15) days prior to the hearing. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that (a) the land use classification of the development is incorrect; (b) the number of trips generated by the development, as calculated by the License Officer, does not accurately reflect the number of trips that are reasonably expected to be generated by the development; or (c) the credit determination under Section 5.18.005B of this Article is incorrect.

6. Within thirty (30) days after the City Council's final decision, the party that submitted the notice of appeal shall be given written notice of the City Council's decision.

C. Calculation of days. The number of days specified in this section shall include weekend days and holidays. The last day of the period shall be included in the computation, unless it is a Saturday, Sunday or a legal holiday, and if it is, the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States, Missouri legislature or the City Council.

SEC. 5.18.010. LICENSE SURCHARGE ANNUAL REVIEW.

A. The Street Improvement Oversight Committee shall monitor the license surcharge and to make recommendations annually to the City Council regarding any amendments to this Article, the resolution establishing trip generation rates and license surcharge rates, administrative guidelines, the streets to be constructed as specified in the Excise Tax Capital Improvement Plan, and any other matters related to the imposition, collection and use of the license surcharge proceeds.

B. To assist the Street Improvement Oversight Committee in performing its annual review the City Manager, with the assistance of the Community Development, Finance and Public Works Directors, shall prepare and submit to the Street Improvement Oversight Committee a report on the subject of the license surcharge, which report shall include:

1. Recommendations regarding appropriate amendments to this Article;
2. Any proposed changes in the license surcharge rates, including but not limited to any change to the maximum rate of the tax, based on an increase or decrease in the Construction Cost Index published by the Engineering News Record, which changes shall become effective on January 1 of the calendar year in which the revised rates are designated to take effect;
3. Proposed changes to the license surcharge calculation method, including the trip generation estimates and the land use categories, if appropriate;
4. Analysis of costs and revenues resulting from the license surcharge imposed pursuant to this Article;
5. Analysis of the impact of the license surcharge, if any, on growth and development in the City in each market segment during the preceding year;
6. The status of the implementation and administration of this Article;
7. A summary of the appeals taken pursuant to this Article;
8. Any proposed changes in the Excise Tax Capital Improvements Plan based on changes in development patterns in the City or other relevant factors.

C. The City Manager, in preparing the annual report, shall, at a minimum, obtain and review the following information:

1. A statement from the Finance Director summarizing the revenue collected through the license surcharge and disbursed during the preceding year;
2. A statement from the Community Development Director summarizing the applications for building permits subject to the license surcharge approved during the preceding year;
3. A statement from the Public Works Director regarding all street improvements funded with license surcharge proceeds and initiated, advanced or completed during the preceding year; and
4. A statement from the Public Works Director regarding any change in the Construction Cost Index as published by the Engineering News Record and the effect of any such change on the maximum rate of the license surcharge.

D. The Street Improvement Oversight Committee's annual review shall be completed by the First Monday of December of each year.

E. Based on the annual review by, and recommendations of, the Street Improvement Oversight Committee, the annual report of the City Manager, and other factors that the Council deems relevant and appropriate, the Council may amend this Article.

SEC. 5.18.011. RULES OF CONSTRUCTION.

The provisions of this Article shall be liberally construed to effectively carry out its purposes.

SEC. 5.18.012 - 5.18.999 RESERVED.

ARTICLE 19, SECONDARY METAL RECYCLERS

SEC. 5.19.001. DEFINITIONS.

A. For the purposes of this Chapter:

BALES OF RECYCLED METAL means regulated metal property processed with professional recycling equipment by compression, shearing, or shredding, to a form in which it may be sold by a secondary metal recycler consistent with industry standards.

CATALYTIC CONVERTER means a device designed for use in a vehicle for purposes of chemically converting harmful exhaust gases, produced by the internal combustion engine, into harmless carbon dioxide and water vapor.

DESIGNATED AGENT means the individual designated by the permit holder who is in actual management and control of the business permitted under this article.

FERROUS METAL means a metal that contains iron or steel.

HVAC COMPONENT means any portion of an air conditioner evaporator coil or condenser used in connection with a residential, commercial or industrial building.

JUNK VEHICLE means a motor vehicle, aircraft, boat, farming implement, industrial equipment, trailer or any other convenience used on the highways and roadways, which has no use or resale value except as scrap.

LISTED OWNER means a public or private cemetery; a political subdivision; telecommunications, cable, wireless service or other communications provider; electrical cooperative; water, municipal or other utility, including those regulated under Chapters 386 or 393 RSMo, or a manufacturer.

NONFERROUS METAL means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, platinum, bronze, lead, zinc, nickel, and their alloys. Nonferrous Metal does not include Precious Metals as defined in Section 5.15.001.

PERSON means any individual, estate, firm, corporation, association, partnership, limited liability company, cooperative or governmental agency.

REGULATED METAL PROPERTY means any item listed in Section 5.19.005.B, vehicle, junk vehicle, vehicle part and any item composed in whole or in part of any nonferrous metal, other than aluminum cans, as defined herein, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling.

SECONDARY METAL RECYCLER means any person who (1) Is engaged in the business of purchasing, collecting, or soliciting regulated metal property for the purpose of recycling; or (2) Operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer, or recycling. Secondary Metal Recycler does not include new and used vehicle dealers, thrift or consignment stores selling new or used products at retail, or businesses selling a product and receiving the replacement product, such as an 'automotive core' as a return.

SECONDARY METAL RECYCLING PERMIT means a document, approved by the License Officer, issued to a person who has applied for and met the requirements to operate as a secondary metal recycler as defined in this article.

SECONDARY METAL RECYCLING YARD means any real property where regulated metal property is purchased or kept for shipment, sale, transfer or recycling.

VEHICLE PART means either the front section consisting of the two front quarter panels, hood, grill and front bumper of an automobile assembled as one unit; or the rear section consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit.

SEC. 5.19.002 SECONDARY RECYCLING PERMIT REQUIRED.

- A. In addition to the occupation license required by this Chapter of the Code, any person who operates or proposes to operate as a secondary metal recycler shall obtain a permit. The permit application may be filed concurrently with the occupation license application.
- B. There shall be no fee for the secondary recycling permit.
- C. Failure to comply with the permitting process or other requirements of this Article will subject the person to the suspension, denial or revocation process and to penalties and fines provided in Article 1 of this Chapter. The License Officer may require an independent review of Secondary Metal Recycler's records and procedures and the cost of this review will be the responsibility of the Secondary Metal Recycler.

SEC. 5.19.003 RECORDS REQUIRED.

Every secondary metal recycler shall keep a register containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value.

- A. There shall be a separate record for each transaction involving any:
 - 1. Ferrous or Nonferrous metals;
 - 2. Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or
 - 3. Catalytic converter.
- B. No secondary metal recycler shall purchase any metal that can be identified as belonging to a Listed Owner, including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than a Listed Owner of the metal or item described in this section unless such person is authorized in writing by a Listed Owner to sell the metal.
- C. The record required by this section shall be accurately and legibly recorded with the following data:
 - 1. A copy of the driver's license or photo identification issued by a State or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain: the current address, gender, birth date, and a photograph of the person from whom the material is obtained;
 - 2. The date, time and place of the transaction;
 - 3. The license plate number, color, and style or make of any motor vehicle used by the seller in delivering any regulated metal property;

4. For each purchase or trade, a full description of the metal, including the quantity by weight and purchase price.
- D. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection at all times to the Chief of Police, the Sheriff of Jackson County, or their respective designees, during normal business hours.

SEC. 5.19.004 FINANCIAL RECORDS.

- A. Any secondary metal recycler paying out an amount that is five hundred dollars or more shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction by issuing a pre-numbered check drawn on a regular bank account in the name of the licensed secondary metal recycler and with such check made payable to the person documented as the seller in accordance with this section, or by using a system for automated cash or electronic payment distribution which photographs or records an image of the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with this Chapter.
- B. Any secondary metal recycler that purchases regulated metal property from a seller and pays in the form of cash is required to obtain a copy of the seller's driver's license or non-driver's license if the metal is copper or a catalytic converter. This section shall not apply to any transaction for which the seller has an existing business relationship with the secondary metal recycler and is known to the secondary metal recycler making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated metal and can be reasonably identified as such a business.

Sec. 5.19.005 RESTRICTIONS ON TRANSACTIONS.

- A. This section shall not apply to any of the following transactions:
 1. Any transaction for which the total amount paid for all regulated metal purchased or sold does not exceed fifty dollars, unless the regulated metal is a catalytic converter;
 2. Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the secondary metal recycler and is known to the secondary metal recycler making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or
 3. Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.
- B. A secondary metal recycler shall not purchase, receive or keep any of the following items without obtaining proof that the seller is the verifiable owner or is an employee, agent, or person who is authorized, in writing, to sell the item on behalf of the owner:
 1. Utility access covers,
 2. Street light poles or fixtures,
 3. Road or bridge guard rails,
 4. Highway or street signs,
 5. Water meter covers,

6. Traffic directional and traffic control signs,
7. Traffic light signals,
8. Any metal marked with any form of the name or initials of a governmental entity,
9. Property owned and marked by a telephone, cable, electric, water, or other utility provider,
10. Property owned and marked by a railroad,
11. Funeral markers and vases,
12. Historical markers,
13. Bales of regulated metal property,
14. Beer kegs,
15. Real estate signs,
16. Bleachers or risers,
17. Twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge,
18. Catalytic converters unless accompanied by a receipt for the removal of the catalytic converter, or the title of the car that the catalytic converter was removed from, or proof or receipt-documenting sale of the automobile from which the catalytic converter was removed to an auto salvage business or scrap metal recycler.
19. HVAC Components. No secondary metal recycler shall purchase HVAC components except from a licensed HVAC dealer or contractor unless accompanied by written verification from a licensed HVAC dealer or contractor evidencing that the components were legally removed and the seller provides a notarized letter stating he has the legal right to sell the material. The verification form should include the name and address of the seller; address from which the unit was removed; description of the unit to include brand, size and serial number if applicable; and the name and business address of the licensed HVAC dealer or contractor. It is an offense for a secondary metal recycler to knowingly accept any portion of an air conditioner evaporator coil or condenser unless the HVAC Components are accepted in compliance with all applicable federal environmental laws.

SEC. 5.19.006. SALE OR DISPOSAL PROHIBITED FOR 10 DAYS.

Except as provided in Article 15 of this Chapter, pertaining to the sale or disposal of secondhand precious metals and gems, it shall be unlawful for any secondary metal recycler to sell, trade, transfer, melt down or in any way dispose of, alter or destroy any metal or items, until ten days after the date of its acquisition.

SEC. 5.19.007. PURCHASES PROHIBITED.

- A. No secondary metal recycler shall directly or indirectly purchase any stolen property or any items defined in this Article, which the recycler has any reason or cause to believe cannot be rightfully or lawfully disposed of by the person offering it.
- B. No secondary metal recycler shall purchase or trade any items from any individual under the age of 18 years.

Sec. 5.19.008. FALSE INFORMATION.

It shall be unlawful for any person to knowingly provide false information for any of the records required by this article as provided in this article or to knowingly sign as true any statement required herein if the same is not true.

Sec. 5.19.009. ACTS OF EMPLOYEES.

The holder of a secondary metal recycling permit and his designated agent shall be liable under this Article for any and all violations by his employees of any provisions of this Article during hours while the employee is being compensated by the permit holder, whether the employee is on or off the premise of the secondary metal recycling yard.

ARTICLE 20. FIREWORKS

SEC. 5.20.001. SALE AND RETAIL DISPLAY.

1. General. No person shall construct a retail display for, sell, or offer for sale, explosives, explosive materials, or fireworks within the City, except as allowed for permitted blasting operations and commercial fireworks displays, and except that the seasonal retail display and sale of certain Division 1.4G fireworks shall be permitted within the City by not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City for the period beginning 10:00 a.m. on June 23 and extending through noon on July 5. All not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City selling Division 1.4G fireworks as authorized herein shall comply with Chapter 320 of the Revised Statutes of Missouri, 11 CSR 40-3.010, CPSC 16 CFR, Parts 1500-1507, DOT 49 CFR, Parts 100-178, and all applicable ordinances of the City.

2. Occupation License Required. No person shall construct a retail display for, sell, or offer for sale at retail, Division 1.4G fireworks as authorized by Subsection 1 of this Section 5.20.001 without a license issued pursuant to this Subsection 2. It shall be unlawful for any person to sell fireworks from a vehicle or in any other manner except from a structure or stand licensed to sell fireworks pursuant to this Section.

A. There shall be up to sixteen (16) fireworks stand licenses available for issuance within the City annually:

- (1) for not-for-profit organizations whose primary purpose is religious, education, youth related or community service and which are located within the City; or,
- (2) for not-for-profit organizations whose primary purpose is religious, education, youth related or community service whose principal business is located within one thousand five hundred (1,500) feet of the City Limits, serving residents and businesses within the City Limits as their primary audience, and who own property within the City.
- (3) Applications shall be made to the City's Community Development Director or his designee on a form provided by the City between the 2nd Monday of April and the following Friday in April, for a license to be issued for July of the same year. The Director shall first consider those applications from the organizations which held a license in 2017 and remained licensed each year thereafter.
- (4) After licenses are issued pursuant to 5.20.001.2.A(1), any remaining licenses shall be issued as follows: The Community Development Director or his designee shall randomly select applications properly filed by the deadline and shall process such applications in the order selected.
- (5) A not-for-profit organization shall be limited to one (1) application submission each year and may be issued not more than one (1) fireworks stand license.
- (6) Incomplete applications shall be rejected and further randomly selected applications considered until all licenses have been issued.

B. Site Plan. No application will be accepted without a site plan showing the following:

- (1) Address or site location (no sales or storage will be permitted in a residentially zoned district or within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, or gasoline filling station) ;

- (2) Property owner and operators' names, addresses and phone numbers;
- (3) Size of lot and tent;
- (4) Location of tent(s) and all other structures and equipment including trailers and storage units on the lot (a maximum of two semi-truck storage trailers or the equivalent of trailer storage shall be permitted per location);
- (5) Location of all existing driveway entrances and temporary parking lots (construction of new driveway entrances and surfacing of parking areas require a permit from the Public Works Department);
- (6) Location of required restroom facilities (a minimum of one portable facility on-site is required);
- (7) Location of required dumpsters (a minimum of one 2-yard dumpster for a location having 1,000 square feet or less and a minimum of two 2-yard dumpsters, or one 4-yard dumpster for a location having more than 1,000 square feet of sales area);
- (8) Location of permanent or proposed temporary electrical service;
- (9) Location of required on-site, off-street customer parking spaces (a minimum of one space per 300 square feet of sales area required);
- (10) Location of nearest fire hydrant;
- (11) Location of signs (no off-premises signage is permitted; no sign may extend above or beyond the limits of the primary structure);
- (12) Other information as may be required by the City to ensure public health and safety.

C. Security Plan. No application will be accepted without a plan to secure the premises when not open to the public and shall include the name of the licensed security company to be used for this purpose.

D. License Fee. Applications must be accompanied by a fee established by the City Council. Any application that is not accompanied by the required fee will be returned to the applicant as incomplete and no further processing of the application will occur.

E. Proof of State Permit. Within thirty (30) days of notification of the acceptance on an application the applicant shall provide proof of a valid permit issued by the Missouri Department of Public Safety for the retail sale of consumer fireworks.

F. Proof of Insurance. Within thirty (30) days of notification of the acceptance on an application the applicant shall provide proof of general liability insurance in the amount of no less than \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit, and covering liabilities arising from the retail sale of fireworks during the term of the coverage shall be submitted with every application. The amount of the insurance shall not be subject to reduction of the aggregate limit as a result of occurrences at locations not operated by the seasonal retailer.

G. Sales Tax Collection. All vendors licensed by the City to sell fireworks shall collect all sales taxes on the retail sales of fireworks. Within thirty (30) days of notification of the acceptance of an application, the applicant shall provide proof of a valid retail sales license issued by the Missouri Department of Revenue for the retail sale of consumer fireworks at a location within the City.

3. Operation of Temporary Fireworks Structures or Stands.

A. It shall be unlawful for any person to construct a retail display for, sell, or offer for sale, within the City, the following Division 1.4G fireworks:

- (1) Sparkler bombs
- (2) Altered or combined fireworks

B. Fireworks stands or structures shall comply with the provisions of the currently adopted International Building Code relative to temporary structures and a certificate of occupancy shall be obtained prior to opening.

C. No temporary stand or structure shall be set up before June 19 of each year.

D. All weeds and combustible materials shall be kept clear of the sales location and a distance of twenty five feet surrounding the sales location.

E. A minimum 3-foot wide, unobstructed aisle running the length of the stand, inside and behind, the sales counter shall be provided.

F. Each stand up to 24 feet in length must have at least two exits. Each stand in excess of 24 feet must have at least three exits. Exit locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.

G. Each stand shall maintain a 2.5 gallon, 2A rated water-pressure type fire extinguisher or an ABC minimum 2A:10BC rated fire extinguisher near each exit and such extinguishers shall be kept in good working order and shall be easily accessible.

H. The stand shall have sufficient security to protect firework inventory from theft and vandalism.

I. The stand shall display in a prominent location, visible to the public, signage with red letters at least one-half inch high on a white background specifying hours of lawful use of fireworks within the City of Independence.”

SEC. 5.20.002 POSSESSION, MANUFACTURING, STORAGE, SALE, HANDLING AND USE

1. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the City, except as follows:

A. Except as authorized below for the storage and handling of certain Division 1.4G fireworks, the storage and handling of fireworks shall be permitted only in compliance with applicable sections of the currently adopted International Fire Code.

B. The manufacture, assembly and testing of fireworks shall be permitted only in compliance with applicable sections of the currently adopted International Fire Code.

C. The possession and use of Division 1.3G fireworks shall be permitted only in accordance with applicable sections of the currently adopted International Fire Code.

D. The possession, storage, handling and use of certain Division 1.4G fireworks shall be permitted within the City, provided such fireworks comply with Chapter 320 of the Revised Statutes of Missouri, 11 CSR 40-3.010, CPSC 16 CFR, Parts 1500-1507, DOT 49 CFR, Parts 100-178, and all applicable ordinances of the City, except that it shall be unlawful for any person to possess, store, handle, or use, within the City, the following Division 1.4G fireworks and sky lanterns:

- (1) Sparkler bombs
- (2) Altered or combined fireworks
- (3) "Sky lanterns", which are small hot air balloons commonly made of paper or other combustible material with an opening at the bottom where a small fire is suspended, and are sometimes known as Chinese lanterns, Kongming lanterns and sky candles. For purposes of this section, "sky lanterns" shall not include hot air balloons piloted by human beings, devices designed to loft scientific payloads (weather balloons) or any lantern that is tethered so as to not become free floating.

E. The use of Division 1.4G fireworks within the City limits shall only be permitted on July 3 and July 5 of each year between the hours of 10:00 a.m. and 11:00 p.m., on July 4 of each year between the hours of 10:00 a.m. and midnight.

F. It shall be unlawful for any person to throw, use, explode, detonate, aim, point or shoot fireworks, including pyrotechnic devices, in such a manner that, after it is ignited, will propel it, or any part thereof, such that it, or any part thereof, lands on property not owned by the person shooting the fireworks.

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

H. It shall be unlawful for any person to throw, use, explode, detonate, or shoot fireworks within six hundred feet of any church, hospital, mental health facility, or school, or within one hundred feet of any location where fireworks are stored, sold or offered for sale or a designated historical structure.

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

J. No person shall throw, use, explode, detonate, or shoot fireworks within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.

K. It shall be unlawful for any person under the age of sixteen (16) years, unless under the supervision of a parent or guardian, to possess or discharge Division 1.4G fireworks within the City limits.