

outline is defined and used in this document

## **TITLE VI. BUSINESS AND OCCUPATION**

### **CHAPTER 600: ALCOHOLIC BEVERAGES**

#### **SECTION 600.005: PURPOSE**

Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this Chapter establish vital regulation of the sale and distribution of alcoholic beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important policy goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors and retailers.

#### **SECTION 600.010: DEFINITIONS**

When used in this Chapter, the following words shall have the following meanings:

*AMUSEMENT PLACE:* Any establishment whose business building contains a square footage of at least six thousand (6,000) square feet, and where games of skill commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played or has a dance floor of at least twenty-five hundred (2,500) square feet or any outdoor golf course with a minimum of nine (9) holes, and which has annual gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts is in non-alcoholic sales.

*CLOSED PLACE:* A place where all doors are locked and where no patrons are in the place or about the premises.

*INTOXICATING LIQUOR:* Alcohol for beverage purposes, including alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (0.5%) by volume. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this Chapter.

*LIGHT WINES:* An intoxicating liquor consisting of wine containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables.

*MALT LIQUOR:* An intoxicating liquor containing alcohol not in excess of five percent (5%) by weight manufactured from pure hops or pure extract of hops, or pure barley malt, or wholesome grains or cereals, and wholesome yeast, and pure water.

*ORIGINAL PACKAGE:* Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other containers of intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor. "*Original package*" shall also be construed and held to refer to any package containing three (3) or more standard bottles of beer.

**PERSON:** An individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any State or Federal court.

**RESORT:** Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000.00) per year with at least fifty thousand dollars (\$50,000.00) of such gross receipts from non-alcoholic sales, or means a seasonal resort restaurant with food sales as determined in Subsection (2) of Section 311.095, RSMo. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

**RESTAURANT BAR:** Any establishment having a restaurant or similar facility on the premises at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises.

**SECTION 600.015:****SALE BY THE DRINK DEFINED**

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed "*sale by the drink*" and may be made only by a holder of a retail liquor dealer's license and, when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

**SECTION 600.020:****LICENSE REQUIRED—CLASSES OF LICENSES**

- A. No person shall sell or offer for sale intoxicating liquor in the City of New Franklin without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.
- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor:
1. *Package liquor—malt liquor only:* Sales of malt liquor at retail in the original package not for consumption on the premises where sold. This license may include Sunday sales from 9:00 A.M. to Midnight.
  2. *Package liquor—all kinds:* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsection (B)(1) of this Section.

3. *Liquor by the drink—malt liquor/light wine only (restaurant-bar only)*: Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (4) of this Section.
  4. *Malt liquor by the drink (restaurant-bar only)*: Sales of malt liquor at retail by the drink for consumption on the premises. This license may include Sunday sales from 9:00 A.M. to Midnight.
  5. *Liquor by the drink—all kinds (restaurant-bar only)*: Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection (B)(2) of this Section.
- C. *Sunday Sales*. Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 9:00 A.M. and Midnight:
1. *Package liquor—all kinds*: Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold.
  2. *Liquor by the drink—restaurant bar*: Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.
  3. *Liquor by the drink—amusement place*: Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.
  4. *Liquor by the drink—place of entertainment*: Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.
- D. *Permits*.
1. *Temporary permit for sale by drink*. Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
  2. *Tasting permit—retailers*. Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(2) and (C) of this Section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.
  3. *Tasting permit—winery, distiller, manufacturer, etc.*
    - a. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this Subsection (D)(3), a "*sales transaction*" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.
    - b. Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller,

manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any

temporary licensed retail premises as described in Sections 311.218, 311.482, 311.485, 311.486, or 311.487, RSMo., or on any tax exempt organization's licensed premises as described in Section 311.090, RSMo.

**SECTION 600.030:****LICENSE REGULATIONS**

- A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter or law.
- B. *Newly-Opened Restaurant Bars Or Amusement Places.*
1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
  2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
- C. *Temporary Permit For Sale By Drink—Certain Organizations.*
1. The City Clerk may issue a permit for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.
  2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.
  3. At the same time that an applicant applies for a permit under the provisions of this Subsection,  
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the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.

4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

D. *Operating Hours, Days.*

1. No person having a license issued pursuant to this Chapter, nor any employee of such person shall sell, give away or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays, and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.
2. When January first (1st), March seventeenth (17th), July fourth (4th) or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *Number Of Licenses Limited.*

1. No license for the sale of any and all kinds of intoxicating liquor by the drink for consumption on the premises shall be granted or issued when the granting thereof shall increase the number of such licenses outstanding and in force at that time to more than one (1) for each five hundred (500) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.
2. No license for the sale at retail of any and all kinds of intoxicating liquor in the original package shall be granted or issued when the granting thereof shall increase the number of such licenses outstanding and in force at that time to more than one (1) for each five hundred (500) inhabitants, or fraction thereof, residing within the City as shown by the last decennial census of the United States.
3. *Determining the number of licenses allowed.* For purposes of determining the number of licenses allowed by this Section, the issuance of licenses shall be counted as follows:
  - a. The issuance of a license as provided in Section 600.020(B)(2) of this Chapter (Package liquor—all kinds) shall be counted as being commensurate with the issuance of one (1) license for every subcategory of package liquor provided in Section 600.020(B)(1).
  - b. The issuance of a license as provided in Section 600.020(B)(5) of this Chapter (Liquor by the drink—all kinds) shall be counted as being commensurate with the issuance of one (1) license for every subcategory of liquor by the drink provided in Sections 600.020(B)(3) and (B)(4).

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F. *General License Regulations.*

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.
4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.

- G. *Druggists May Sell And Physicians Prescribe Liquor.* Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State, and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative; provided, that nothing in this Chapter shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

**SECTION 600.035: SALES OF LIQUOR PROHIBITED NEAR SCHOOLS  
AND CHURCHES**

- A. No license shall be granted for the sale of intoxicating liquor, as defined in this Chapter, within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the Board of Aldermen, except that when a school, church or place of worship shall hereafter be established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days'

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written notice has been provided to all owners of property within one hundred (100) feet of the proposed licensed premises.

- B. Subsection (A) of this Section shall not apply to a license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of federal taxes.
- C. Subsection (A) of this Section shall not apply to any premises holding a license issued before January 1, 2004, by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor. To retain a license under this Subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days.

**SECTION 600.040:**

**SCHEDULE OF LICENSE FEES**

The following categories and subcategories of licenses shall be issued upon compliance with the provisions of this Chapter and payment of the license fee indicated:

1. *General licenses.*

- a. Malt liquor—original package      \$ 75.00
- b. Intoxicating liquor (all kinds)—original package      150.00
- c. Malt liquor—by drink (restaurant-bar only)      75.00
- d. Malt liquor and light wines—by drink (restaurant-bar only)      75.00
- e. Intoxicating liquor (all kinds)—by drink (restaurant-bar only)      450.00

2. *Sunday sales.* (Additional fees)

- a. Intoxicating liquor—original package      300.00
- b. Restaurant bars      300.00
- c. Amusement places      300.00
- d. Liquor by the drink—charitable organizations      300.00

3. *Permits.*

- a. Temporary permit—by the drink for certain organizations (7 days max.) ... 37.50
- b. Tasting permit      37.50
- c. Caterers      15.00  
per each calendar day

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fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license,

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or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business and, if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The Board of Aldermen also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.

- C. Upon approval of any application for a license, the Clerk shall grant the applicant a license to conduct business in the City for a term to expire with the thirtieth (30th) day of June next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.
- D. Applications for renewal of licenses must be filed on or before the first (1st) day of May of each calendar year. Such renewal application shall be reviewed by the Board at its next meeting. Upon approval of the majority of the Board and payment of the license fee provided herein, the Clerk shall renew the license. In the event that any person residing or conducting businesses within two hundred (200) feet of the applicant's place of business shall file a written protest against the renewal of such license, the Board shall conduct a hearing on the application for license renewal as provided in this Subsection.

**SECTION 600.060:****MINORS**

- A. *Persons Eighteen Years Of Age Or Older May Sell Or Handle Intoxicating Liquor, When.*
1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor.
  2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.
  3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least eighteen (18) years of age may be employed and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail. Any wholesaler licensed pursuant to this Chapter, may employ

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persons of at least eighteen (18) years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor.

4. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar, intoxicating beverages.

*B. Sales To Minor—Exceptions.*

1. No licensee, his/her employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the parent or guardian of the minor nor to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.
2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.
3. It shall be a defense to prosecution under this Subsection if:
  - a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
  - b. The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and
  - c. To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

*C. Misrepresentation Of Age By Minor To Obtain Liquor—Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.*

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.
2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's

license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

D. *Minors In Possession Of Intoxicating Liquor.*

1. No person under the age of twenty-one (21) years, shall purchase or attempt to purchase, or have in his/her possession, any intoxicating liquor as defined in Section 600.010 or, shall be visibly in an intoxicated condition as defined in Section 577.001, RSMo., or shall have a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood.
2. The provisions of this Subsection shall not apply to a student who:
  - a. Is eighteen (18) years of age or older;
  - b. Is enrolled in an accredited college or university and is a student in a culinary course;
  - c. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
  - d. Tastes a beverage under Subsection (D)(2)(c) of this Section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of any authorized instructor of the college or university, who must be twenty-one (21) years of age or older. Nothing in this Subsection, may be construed to allow a student under the age of twenty-one (21) to receive any beer, ale, porter, wine or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

3. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in Section 577.001, RSMo., shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this Subsection shall be limited to not more than two (2) such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the State Department of Health and Senior Services by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services for this purpose. The State Department of Health and Senior Services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Department of Health and Senior Services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not

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preclude the admission of evidence relating to the test taken at the direction of a Law

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Enforcement Officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. "Full information" is limited to the following:

- a. The type of test administered and the procedures followed;
- b. The time of the collection of the blood or breath sample or urine analyzed;
- c. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- d. The type and status of any permit which was held by the person who performed the test;
- e. If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

"Full information" does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the State. Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.

**SECTION 600.070:****MISCELLANEOUS OFFENSES**

- A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler.* It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.
- B. *Packaging, Labeling.* Any retailer licensed pursuant to this Chapter shall not:
  1. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or
  2. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.
- C. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.
- D. *Unlawful To Sell Unlabeled Liquor—Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.
- E. *Only Those Liquors Authorized By License To Be Kept On Premises.*

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1. It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the

drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

2. Any retailer licensed pursuant to this Chapter shall not:
  - a. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or
  - b. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

G. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "*public place*" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.
2. No person shall drink or ingest any intoxicating liquor in or on any public place.
3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.
4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

#### **SECTION 600.080:**

#### **WARNING SIGN DISPLAYED—LIQUOR LICENSES**

Any person who is licensed to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this Section. Such sign shall be at least eleven (11) inches by fourteen (14) inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects". The licensee shall display such sign in a conspicuous place on the licensed premises.

#### **SECTION 600.090:**

#### **ADMINISTRATION OF LAW—LICENSE SUSPENSION/REVOCAION**

A. *Suspension Or Revocation Of License—When—Manner.* The Board may suspend or revoke the  
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license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before

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the Board not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises. The hearing shall be conducted in accordance with Section 600.100 of this Chapter.

- B. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:
1. Violating any of the provisions of either this Chapter, Chapter 311, RSMo., or any ordinance of the City;
  2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;
  3. Making a false affidavit in an application for a license under this Chapter;
  4. Failing to keep an orderly place or house;
  5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
  6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
  7. Selling, giving, or otherwise supplying intoxicating liquor to:
    - a. Any person under the age of twenty-one (21) years,
    - b. Any person during unauthorized hours on the licensed premises,
    - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
    - d. Any person on the licensed premises during a term of suspension as ordered by the Board.
- C. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any violation of Chapter 311, RSMo., or of any felony violation of Chapter 195, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.
- D. *Effect Of Suspension.* No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

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**SECTION 600.100: HEARINGS UPON SUSPENSION OR REVOCATION  
OF LICENSES**

- A. *Testimony—Evidence.* Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.
- B. *Witnesses—How Summoned.* Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.
- C. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.
- D. *Decision—Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.090 of this Chapter, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.
- E. *Appeal.* Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in Chapter 536, RSMo., provided such appeal is filed within thirty (30) days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.

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**CHAPTER 605: BUSINESS LICENSES,  
MERCHANTS' LICENSES AND BUSINESS  
REGULATIONS**

**ARTICLE I. MERCHANTS' LICENSES**

**SECTION 605.010: DEFINITIONS**

As used in this Chapter, the following terms shall have the following meanings indicated:

*BOARD OF ALDERMEN:* The Board of Aldermen of the City of New Franklin.

*BUSINESS OR OCCUPATION:* Any person, his/her lessees and his/her trustees or receivers appointed by any court whatsoever, engaged in any business, occupation, pursuit, profession or trade or in keeping or maintaining of any institution, establishment, articles, utility or commodities specified in the Municipal Code of the City within the City, except as may be otherwise provided by this Code.

*CITY:* The City of New Franklin, State of Missouri.

*CITY CLERK:* The Clerk of the City of New Franklin.

*COLLECTOR:* The Collector of the City of New Franklin.

*FEE:* The sum of lawful money of the United States of America required to be paid to the City by any merchant, business or occupation for a license before commencing business as such.

*LICENSE YEAR:* Unless otherwise provided, shall be a period of twelve (12) calendar months beginning on the first (1st) day of January in each year commencing with the year 1973 or in the case of those businesses established subsequent to the 1st day of January, at the beginning of doing business and shall end on the following thirty-first (31st) day of December.

*MAYOR:* The Mayor of the City of New Franklin.

*MERCHANT:* Any person and his/her lessees and his/her trustees or receivers appointed by any court whatsoever, who deals in the selling at wholesale or retail of any goods, wares, merchandise or personal property of any description or the rendering of any service in connection therewith at any store, stand or place within the City except as is or may be otherwise provided by Chapter.

*PERSON:* Any natural individual, partnership, firm, corporation or association. As applied to partnerships, firms or associations, the term includes the individual partners or members thereof and the singular includes the plural. (CC 1996 §605.010)

**SECTION 605.020: LICENSE TO BE OBTAINED**

- A. No person, corporation or co-partnership of persons shall deal as a merchant in this City without a license first obtained according to this Chapter.

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- B. Those people who solicit business in the City of New Franklin, by means of door to door or by the posting of signs and handbills about the town are considered doing business in the City of New Franklin. Therefore, those individuals must obtain a business license.
- C. Each solicitor and each bill posted will be deemed a separate violation subject to the .

**SECTION 605.030: PERSONS NOT TO BE CHARGED FOR BUSINESS LICENSE**

- A. No person following for a livelihood the profession or calling of minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropractist, or physician or surgeon in this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling, and after December 31, 2003, no investment funds service corporation as defined in Section 143.451, RSMo., may be required to pay any such license fee in excess of twenty-five thousand dollars (\$25,000.00) annually, any law, ordinance or Charter to the contrary notwithstanding.
- B. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his/her profession unless that person maintains a business office within the City of New Franklin.

**SECTION 605.040: LICENSE NOT TRANSFERABLE**

No license granted in virtue of this Article shall authorize any person, corporation or co-partnership of persons to deal in the selling of goods, wares and merchandise at more than one (1) place within the City at the same time for a longer period than twelve (12) months. (CC 1996 §605.070)

**ARTICLE II. BUSINESS LICENSES—IN**

**GENERAL**

**SECTION 605.050: APPLICATION FOR A BUSINESS LICENSE**

- A. Applicants for all licenses required by this Chapter shall be made in writing to the City Clerk, using the forms therefore provided by the City Clerk.
- B. Each applicant shall state the name of the applicant:
  - 1. If a partnership, name of all partners;
  - 2. If a corporation, name of president and chief managing officer;
  - 3. If other entity, name of managing or responsible party.

- C. Each applicant shall state the type of license application is being made for. (Ord. No. 674 §§1–3, 7-28-03)

**SECTION 605.060: SALES TAX ID LETTER REQUIRED FOR A  
BUSINESS LICENSE**

No business license shall be issued to or renewed for any such business or activity unless the applicant therefore, at the time of filing the application for issuance or renewal of such license, presents to the City Clerk duly authenticated proof of:

1. The applicant's possession of a Missouri sales tax license; or
2. Temporary special events sales tax report or permit issued by the Missouri Department of Revenue and verification of the applicant's intent to file such report and remit the sales tax to be reported; or
3. Document issued and certified by the Department of Revenue or other lawful taxing authority evidencing the applicant's exemption from responsibility for collection and payment of Missouri sales tax. (Ord. No. 673 §1, 7-28-03)

**SECTION 605.070: BUSINESS LICENSE FOR A CONSTRUCTION  
CONTRACTOR—PROOF OF WORKERS' COMPENSATION  
REQUIRED**

- A. No business license for a contractor in the construction industry under the provisions of this Chapter shall be issued by the City Clerk unless the applicant first provides to the City Clerk:
  1. A certificate of insurance to establish the existence of Workers' Compensation insurance for the benefit of employees of the applicant, or
  2. An affidavit, the form of which shall be developed by the Division of Workers' Compensation, signed by the applicant attesting that the contractor is exempt from the requirement of maintaining such insurance.
- B. It is unlawful for any applicant to provide fraudulent information pursuant to this Section.
- C. Nothing in this Section shall be construed to create or constitute a liability to or a cause of action against the City of New Franklin or its officers or employees in regard to the issuance of any license to this Section or this Chapter. (Ord. No. 675 §§1–3, 7-28-03)

**SECTION 605.080: LICENSE TAX**

- A. All merchants, businesses and occupations who file an application from the date of this Article must be approved and a fee shall be established by the Board of Aldermen of the City.
- B. All financial institutions, insurance companies, agencies and brokers and lending institutions shall pay to the City Collector fifty dollars (\$50.00).
- C. All other businesses and occupations shall pay to the City Collector an annual license fee of twenty-five dollars (\$25.00). (CC 1996 §615.020; Ord. No. 653 §§2–4, 1-22-01)

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**CHAPTER 610: JUNK YARDS, JUNK DEALERS  
AND ITINERANT JUNK DEALERS**

**SECTION 610.010: DEFINITIONS**

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Chapter:

*BUSINESS PREMISES OR PREMISES:* The area of a junk yard as described in a junk dealer's license or application for license, as provided for in this Chapter.

*ITINERANT JUNK DEALER:* An individual (natural person) who buys, sells, collects or delivers junk within the City as a business or employment within the City, but who is not an operator of a junk yard within the City or an employee of such an operator.

*JUNK:* Old iron, steel, brass, copper, tin, lead or other base metals; old cordage, ropes, rags, fibers or fabrics, old rubber; old bottles or other glass; bones; waste paper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal, or stripping of parts; but "*junk*" shall not include materials or objects accumulated by a person as by-products, waste or scraps from the operation of his/her own business or materials or objects held and used by a manufacturer as an integral part of his/her own manufacturing processes.

*JUNK DEALER:* A person who operates a junk yard, as defined below, within the City.

*JUNK YARD:* A yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one (1) or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

*PERSON:* Any person, firm, partnership, association, corporation, company or organization of any kind. (CC 1996 §625.010; Ord. No. 615 §1, 10-13-97)

**SECTION 610.020: LICENSE REQUIRED**

- A. It shall be unlawful for any person to act as a junk dealer in the City of New Franklin, whether personally, by agents or employees, singly or along with some other business enterprise, without first having obtained a license therefor from the City Collector in accordance with the provisions of this Chapter. A junk dealer who operates more than one (1) junk yard within the City shall be required to have in effect a separate license for each yard.
- B. It shall be unlawful for any individual to act as an itinerant junk dealer in the City of New Franklin without first having obtained a license therefor from the City Collector in accordance with the provisions of this Chapter. (CC 1996 §625.020; Ord. No. 615 §2, 10-13-97)



**SECTION 610.030: ENFORCEMENT**

- A. A Board of Investigators consisting of the Board of Health, the local fire station chief and the Chief of Police and the Building Inspector is hereby created with Building Inspector as Chairman. Except where otherwise provided, a majority of the members of the Board shall constitute a quorum. The Board shall appoint a Secretary for itself from among the employees of the City, adopt its own procedural rules and keep a record of its proceedings and transactions.
- B. It is hereby made the duty of said Board to enforce or aid in the enforcement of all provisions of this Chapter and for this purpose any of the above members of the Board or their duly authorized representatives shall have the right and are hereby empowered to enter upon any premises on which any business subject to the provisions of this Chapter is located or about to be located and inspect the same at any reasonable time. The Board is further empowered to issue orders granting, renewing and revoking any license provided for in accordance with the provisions of this Chapter. (CC 1996 §625.030; Ord. No. 615 §3, 10-13-97)

**SECTION 610.040: APPLICATION**

An applicant for license under this Chapter shall file with the Chairman of the Board of Investigators a written application signed by himself/herself, if an individual, by all partners of a partnership and by the president or chief officer of a corporation or other organization upon forms provided by the Board of Investigators, together with two (2) copies of such application and a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or material:

1. *Junk dealer applications.*
  - a. Name, residence address and telephone number of each individual owner, partner or if a corporation or other organization, each officer and director.
  - b. Trade names used during the previous five (5) years by the applicant and each person signing the application, along with the locations of prior establishments.
  - c. Names and addresses of employers of each person signing the application during the previous five (5) years.
  - d. The trade name and address of the business on behalf of which application is made and its telephone number, if assigned.
  - e. The name, residence address and telephone number of each person employed or intended to be employed in the business as of the time the application is filed.
  - f. Exact address or location of the place where the business is or is proposed to be carried on, plus a construction blueprint of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings and uses.
  - g. A description of the materials with which any buildings to be used in connection with the licensed business are or are to be made; a construction blueprint giving distances, showing

the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators and walls.

- h. Such other information as the Board of Investigators shall find reasonably necessary to effectuate the purposes of this Chapter and to arrive at a fair determination of whether the terms of this Chapter have been complied with.

2. *Itinerant junk dealer applications.*

- a. Name, residence address and telephone number.
- b. Trade names and exact locations and descriptions of any businesses operated by applicant presently and during the past five (5) years.
- c. Names and addresses of employers of applicant presently and during the past five (5) years.
- d. Names and addresses of two (2) persons, other than employers or relatives, (preferably local residents) who know applicant personally.
- e. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance; the nature of the offense; the date of its commission; and the punishment or penalty assessed therefor.
- f. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- g. Trade names, business address and telephone number (if assigned) of applicant or any employer of applicant in connection with his/her activities as an itinerant junk dealer and a description of such activities.
- h. Such other information as the Board of Investigators shall find reasonably necessary to effectuate the purposes of this Chapter and to arrive at a fair determination of whether the terms of this Chapter have been complied with. (CC 1996 §625.040; Ord. No. 615 §4, 10-13-97)

*Note—The application forms are on file in the city offices.*

**SECTION 610.050: INVESTIGATION—APPROVAL AND ISSUANCE OF  
LICENSE—JUNK DEALERS**

- A. Upon receipt of an application for a junk dealer's license as provided for herein, the Chairman of the Board of Investigators shall furnish copies of same to the other members of the Board. The Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. The proposed or existing premises and equipment with which the junk yard is being or is to be operated shall be examined by the other members of the Board or their duly appointed representatives. No junk dealer's license shall be issued unless the application is approved by all

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members of the Board.

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- B. The Chief of Police shall approve the application only if he/she finds that the applicant's business responsibility and moral character are satisfactory and that all agents or officers of applicant, if any, who will take part in the operation of such business are of good character and reputation and capable of operating the business in a manner consistent with public health, safety and good morals.
- C. The Building Inspector shall approve the application only if he/she finds that any proposed or existing buildings or equipment with which the junk yard is being or is to be operated conform to the requirements of the Building Code and the requirements of this Chapter.
- D. The Board of Health shall approve the application only if they find that the proposed or existing premises and equipment conform to the requirements of this Chapter and all applicable health laws.
- E. The Fire Chief shall approve the application only if he/she finds that the proposed or existing premises and equipment conform to the requirements of this Chapter and all applicable fire prevention laws.
- F. If any of the findings provided for in Subsections (B), (C), (D) and (E) above are unfavorable to the applicant, the Chairman shall, within thirty (30) days after the filing of the application, notify the applicant that his/her application is disapproved and that no license will be issued. Upon request, he/she shall furnish the applicant with a brief written statement of the grounds upon which the application was disapproved. If the findings in Subsections (B), (C), (D) and (E) above are favorable to the applicant, the Chairman shall, within thirty (30) days after the filing of the application, issue a junk dealer's license to the applicant if he/she finds:
  - 1. The applicant has obtained from the official charged with administration under the zoning regulations a certificate to the effect that the junk yard will not be a violation of existing City zoning regulations; and
  - 2. The applicant has paid the fee prescribed by this Chapter. One hundred dollars (\$100.00) in the case of junk dealers and twenty-five dollars (\$25.00) in the case of itinerant junk dealers due and payable upon and to be computed as of January first (1st) of each year, except that no fee shall be required of a non-profit, charitable enterprise. (CC 1996 §625.050; Ord. No. 615 §5, 10-13-97)

**SECTION 610.060:****LICENSE NOT TRANSFERABLE**

No license issued under this Chapter shall be transferred or assigned or used by any person other than the one to whom it was issued and no junk dealer's license shall be used at any location other than the one described in the application upon which it was issued. (CC 1996 §625.060; Ord. No. 615 §6, 10-13-97)

**SECTION 610.070:****GENERAL OPERATING REQUIREMENTS**

- A. The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:
  - 1. The license issued pursuant to this Chapter shall be plainly displayed on the business premises.

2. The junk yard, together with things kept therein, shall at all times be maintained in a sanitary condition.
3. No space not covered by the license shall be used in the licensed business.
4. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
5. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four (4) inches.
6. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licenses business.
7. No junk shall be allowed to rest upon or protrude over any public street, walkway or curb or become scattered or blown off the business premises.
8. Junk shall be stored in piles not exceeding eight (8) feet in height and shall be arranged so as to permit easy access to all such junk for fire-fighting purposes.
9. No combustible material of any kind not necessary or beneficial to the licenses business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
10. No scraped vehicles shall be kept on the premises.
11. No junk or other material shall be burned on the premises.
12. No noisy processing of junk or other noisy activity shall be carried on in connection with the licenses business on Sunday, Christmas, Thanksgiving or at any time between the hours of 6:00 P.M. and 7:00 A.M.
13. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid, vertical wall or fence of a minimum height of ten (10) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licenses business.
14. The license shall permit inspection of the business premises by any member or representative of a member of the Board of Investigators at any reasonable time.
15. No junk dealer licensed hereunder or his/her agent or employee shall purchase or receive any junk for use in the licensed business from any person under the age of sixteen (16) years without the written consent of a parent or guardian of such person. Such writing shall be held available for inspection by any ember or representative of a member of the Board of Investigators for a period of at least one (1) year.
16. Each acquisition of junk shall be recorded in English in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired and the date of the transaction. Such

data shall be held available for inspection by any member or representative of a member of the Board of Investigators for a period of at least one (1) year.

17. No junk yard shall be allowed to become a nuisance; nor shall any junk yard be operated in such manner as to become injurious to the health, safety or welfare of the community or of any residents close by.
- B. The following general operating requirements shall apply to all itinerant junk dealers licensed in accordance with this Chapter:
1. The licensee shall have the license issued to him/her under this Chapter in his/her immediate possession at all times when he/she is acting as an itinerant junk dealer in the City and shall exhibit it to any person upon request.
  2. He/she shall not purchase or receive any junk from any person under the age of sixteen (16) years without the written consent of a parent or guardian of such person. He/she shall retain such writing for a period of at least one (1) year and shall produce it within a reasonable time upon the request of any member or representative of a member of the Board of Investigators.
  3. He/she shall record in English in a permanent type register each acquisition of junk within the City, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired and the date of the transaction. He/she shall retain such data for a period of at least one (1) year and shall produce them within a reasonable time upon the request of any member or representative of a member of the Board of Investigators. (CC 1996 §625.070; Ord. No. 615 §7, 10-13-97)

**SECTION 610.080:****INSPECTIONS**

The Board of Investigators or its duly authorized representatives shall inspect the junk yards of all junk dealers licensed under this Chapter at least once a year to determine whether such yards are being operated in accordance with the provisions of this Chapter and other applicable provisions of law. (CC 1996 §625.080; Ord. No. 615 §8, 10-13-97)

**SECTION 610.090:****REVOCATION AND SUSPENSION**

When the Board of Investigators determines that the public interest so requires, it shall revoke or suspend the license of any junk dealer or itinerant junk dealer when it finds, after due investigation, that:

1. The junk dealer or any agent or officer of such dealer who takes part in the operation of the licensed business or the itinerant junk dealer is not of good character or reputation or is not capable of operating the licensed business or carrying on the licensed activity in a manner consistent with public health, safety and good morals;
2. The junk dealer has failed to comply with the provisions of this Chapter or any provision of law applicable to the premises, equipment or operation of the licensed business or the itinerant junk dealer has failed to comply with this Chapter or any provision of law applicable to his/her equipment or licensed operations;

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3. The licensee has obtained his/her license through any fraud or misstatement;
4. The licensed business or activity is being conducted in a manner detrimental to the health, safety or general welfare of the public or is a nuisance or is being operated or carried on in any unlawful manner; or
5. The licensed business or activity is no longer being operated or carried on. (CC 1996 §625.090; Ord. No. 615 §9, 10-13-97)

**SECTION 610.100: HEARING ON GRANTING, DENIAL, RENEWAL OR REVOCATION OF LICENSE**

- A. A person aggrieved by an order of the Board of Investigators granting, denying, renewing or revoking a license for a proposed or existing business or activity subject to the provisions of this Chapter may file a written request for a hearing before the Board within ten (10) days after issuance of such order. The Board shall give notice of a public hearing upon this request to be held in not less than five (5) days after service of the notice on the person requesting the hearing. The Board shall also give notice of the hearing to other persons directly interested in the order in question. At such hearing, the Board shall determine whether the granting, denial, renewal or revocation of the license was in accordance with the provisions of this Chapter and shall issue a written findings of fact, conclusions of law and an order to carry out its findings and conclusions. These findings of fact, conclusions of law and order shall be filed with the City Clerk and served by the Board upon all parties appearing or represented at said hearing.
- B. The City Attorney shall furnish such assistance and advice to the Board of Investigators as the Board shall request. (CC 1996 §625.100; Ord. No. 615 §10, 10-13-97)

**SECTION 610.110: COMPLIANCE**

Any person acting as a junk dealer or itinerant junk dealer within the City on the effective date of this Chapter shall have a period of ninety (90) days after such effective date to comply with provisions of this Chapter. (CC 1996 §625.110; Ord. No. 615 §11, 10-13-97)



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## CHAPTER 615: CIGARETTES

### SECTION 615.010: DEFINITIONS

When used in this Chapter, the following words shall have the meanings respectively ascribed to them:

*CIGARETTE:* An item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three (3) pounds per one thousand (1,000) cigarettes and which is commonly classified, labeled or advertised as a cigarette.

*CONSUMER:* 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:* Any person dealing directly with the manufacturer of cigarettes in their purchase and in the business of selling cigarettes as a first (1st) seller.

*FIRST SALE WITHIN THE STATE:* The first (1st) sale of a tobacco product by a manufacturer, wholesaler or other person to a person who intends to sell such tobacco products at retail or to a person at retail within the State of Missouri.

*PACKAGE OF CIGARETTES:* A container of any type composition in which is normally contained twenty (20) individual cigarettes, except as in special instances when the number may be more or less than twenty (20).

*PERSON:* Any individual, corporation, firm, partnership, incorporated or unincorporated association, or any other legal or commercial entity.

*RETAILER:* Any person who sells to a consumer or to any person for any purpose other than resale.

*SALE:* In this instance is defined to be and declared to include sales, barter, exchanges and every other manner, method and form of transferring the ownership of personal property from one person to another. "Sale" also means the possession of cigarettes or tobacco products by any person other than a manufacturer, wholesaler or retailer and shall be prima facie evidence of possession for consumption.

*VENDING MACHINE:* Any mechanical electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.

*WHOLESALE:* Any person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes or tobacco products to, and render service to, retailers in the territory the person, firm or corporation chooses to serve; that purchases cigarettes or tobacco products directly from the manufacturer; that carries at all times at his/her or its principal place of business a representative stock of cigarettes or tobacco products for sale; and that comes into the possession of cigarettes or tobacco products for the purpose of selling them to retailers or to persons outside or within the State who might resell or retail the cigarettes or tobacco products to consumers. This shall include any manufacturer, jobber, broker, agent or other person, whether or not enumerated in this Chapter, who so sells or so distributes cigarettes or tobacco products. (CC 1996 §630.010; Ord. No. 607 §2, 10-28-96)

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**SECTION 615.020: PAYMENT OF TAX REQUIRED**

This tax shall be paid by the dealer or wholesaler, as defined in Section 615.010, selling cigarettes or offering them for sale. (CC 1996 §630.020; Ord. No. 607 §2, 10-28-96)

**SECTION 615.030: TAX LEVY**

Every dealer or wholesaler engaged in the business of selling cigarettes or offering or displaying the same for sale within the City shall pay an occupation tax at the rate of three dollars (\$3.00) per thousand for all cigarettes sold or offered or displayed for sale. This tax shall be paid but once, as provided for in Section 615.040 and only by the dealer selling cigarettes or displaying or offering them for sale. (CC 1996 §630.030; Ord. No. 607 §2, 10-28-96)

**SECTION 615.040: MONTHLY PAYMENT**

It shall be the duty of every dealer or wholesaler, as defined in Section 615.010, selling, offering or displaying for sale any package of cigarettes to remit the monthly cigarette tax reporting form and full payment by the fifteenth (15th) day of each following month. The canceled check accompanied by the monthly cigarette tax reporting form shall be proof of payment. (CC 1996 §630.040; Ord. No. 607 §2, 10-28-96)

**SECTION 615.050: RULES AND REGULATIONS—RECORDS**

For the purpose of enabling the City Collector to enforce the terms of this Chapter, the following provisions are enacted:

1. Each dealer in the City and those wholesalers and retailers, as defined in Section 615.010, shall procure and retain invoices showing the amount and value of the shipment of cigarettes received by him/her, the date thereof and the name of the shipper and shall retain this invoice for a period of three (3) years subject to the use and inspection of the City Collector.
2. All dealers, wholesalers and retailers, as defined in Section 615.010, within the City shall maintain and keep for a period of three (3) years such other records of cigarettes received, sold or delivered with the City as may be required by the City Collector.
3. The City Collector or his/her duly authorized representatives are authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where they are placed, stored or sold and equipment of any such dealer, wholesaler or retailer pertaining to the sale and delivery of cigarettes taxable under this Chapter.
4. To verify the accuracy of the occupation tax imposed and assessed by this Chapter, each person, as defined in Section 615.010, is directed and required to give to the City Collector or his/her duly authorized representatives the means, facilities and opportunity for such examinations as are herein provided for and required.
5. In addition to the powers herein granted to the City Collector to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of his/her powers to a deputy or

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other employee of his/her office and any other matter or thing pertaining to the administration and enforcement of the provision of this Chapter.

6. Cigarette tax reporting information received from the State of Missouri shall be held in confidence and used solely for verifying cigarette tax payments. (CC 1996 §630.050; Ord. No. 607 §2, 10-28-96)

**SECTION 615.060:****REFUNDS**

The City Collector is authorized to adopt, prescribe and promulgate rules and regulations including a monthly cigarette tax reporting form with regard to the presentation and proof of claim for refunds and credits as he/she may deem advisable. (CC 1996 §630.050; Ord. No. 607 §2, 10-28-96)

**SECTION 615.070:****OATHS AND SUBPOENAS**

The City Collector or his/her employees or agents duly designated and authorized by him/her shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their power and duties under this Chapter. The City Collector 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 enforcement of this Chapter and to examine them in relation thereto. (CC 1996 §630.060; Ord. No. 607 §2, 10-28-96)

**SECTION 615.080:****DEALERS OUTSIDE CITY**

Any dealer whose place of business is outside the corporate limits of the City shall be bound by all of the provisions of this Chapter. (CC 1996 §630.080; Ord. No. 607 §2, 10-28-96)

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**CHAPTER 620: BUSINESSES SUPPLYING  
UTILITY SERVICES—LICENSE TAX**

**SECTION 620.010: ELECTRICITY AND GAS**

- A. The word "*person*", when used in this Section, shall include any individual, firm, co-partnership, joint partnership, joint adventure, association, corporation, estate, business trust, trustee, receiver, syndicate or any other group or combination acting as a unit, in the plural as well as in the singular number.
- B. Every person now or hereafter engaged in the business of supplying electricity for compensation for any purpose in the City shall pay to the City as a license tax a sum equal to two and seventy-one hundredths (2.71%) of the gross revenue derived from such business, exclusive of electric sales to the municipality and electric revenue from customers billed under the filed industrial rates.
- C. Every person now or hereafter engaged in the business of supplying gas for compensation for any purpose in the City shall pay to the City as a license tax a sum equal to three percent (3%) of the gross revenue derived from such business.
- D. It is hereby made the duty of every person engaged in the business described in the foregoing Subsections hereof to file with the City Administrator on the fifteenth (15th) day of January, on the fifteenth (15th) day of April, on the fifteenth (15th) day of July and on the fifteenth (15th) day of October of each year a sworn statement of the gross receipts of such persons from such business for the three (3) calendar months or parts thereof after this Chapter takes effect preceding the filing of such statement. The City Administrator or deputy or authorized agent shall be and is hereby authorized to investigate the correctness and accuracy of the said statement required and for that purpose shall have access, at all reasonable times and business hours, to inspect the books, documents, papers and records of any such person so making such statement in order to ascertain the accuracy thereof.
- E. Every person now or hereafter engaged in the business described in Subsections (B) and (C) hereof shall pay to the Collector of the City on the fifteenth (15th) day of January, on the fifteenth (15th) day of April, on the fifteenth (15th) day of July and on the fifteenth (15th) day of October of each year that this Section is in force and effect an amount equal to the abovenoted percentage rates of said person's gross receipts from the said business herein named for the preceding three (3) calendar months or parts thereof that this Section is in force and effect.
- F. The tax herein required to be paid shall be in lieu of any other occupation tax required of any person engaged in the business enumerated in Subsections (B) and (C) hereof, but nothing herein contained shall be so construed as to exempt any such person from the payment to the City of the tax or taxes which the City levies upon the real or personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than the services described in Subsections (B) and (C), nor shall the tax herein required exempt any such person from the payment of any other tax which may be lawfully required, other than an occupation tax on the business described in Subsections (B) and (C). (CC 1996 §665.010)

**SECTION 620.020: TELEPHONE SERVICE PROVIDERS**

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A. Every person, firm, company or corporation now or hereafter engaged in the business of furnishing

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telephone service in the City shall pay to said City, as an annual license tax, the sum of two thousand two hundred dollars (\$2,200.00).

- B. The first (1st) payment of tax provided for herein shall be on November 1, 2004 and shall be in the amount of two thousand two hundred dollars (\$2,200.00) for the period from November 1, 2004 to October 31, 2005. Subsequent annual payments shall be made on or before the first (1st) day of November of each year.
- C. The payments required by the provisions of this Section shall be a license tax authorized by Sections 71.610, 94.110 and 94.270, RSMo., 2000, and amendments thereto.
- D. With respect to persons providing telephone or telecommunication service, these shall be deemed to include all communication services and not limited to the above regardless of the supplier (except cable TV systems).
- E. All funds received from the tax imposed by this Section shall be deposited in the General Fund and be appropriated by the Board of Aldermen in the annual City budget.
- F. Should any person, firm or corporation engaged in the business of furnishing telephone service or telecommunication services fail to pay the tax as provided for in this Section by the date due, such person shall be penalized in an amount equal to ten percent (10%) of the tax when due, which penalty shall be payable to the City. Other persons violating the provisions of this Chapter shall be guilty of a misdemeanor. Each ten (10) days that violations continue shall constitute a separate offense.
- G. All such persons, firms, companies or corporations licensed hereunder on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting such raising or lowering of wires and payment in advance may be required. Not less than forty-eight (48) hours' advance notice shall be given to arrange for such temporary wire changes.
- H. The right is hereby granted to all such persons, firms, companies or corporations licensed hereunder to trim trees, brush or hedges upon and overhanging the streets, alleys, sidewalks and public places of said City, so as to prevent such foliage from coming in contact with telephone wires and cables, all of said trimming to be done under the supervision and direction of the Governing Body of said City or of any City Official to whom said duties have been or may be delegated. (CC 1996 §665.060; Ord. No. 691 §§2-10, 10-25-04)

## CHAPTER 625: VIDEO SERVICES PROVIDERS

### SECTION 625.010: GENERAL PROVISIONS

- A. *Definitions.* The words and phrases used in this Chapter shall have the meaning as set forth in Section 67.2677, RSMo., or, if not defined therein, shall have such meanings as established by City Code.
- B. *Franchise Fee.* Pursuant to Section 67.2689, RSMo., and as partial compensation for use of the City's public rights-of-way, each video services provider or other person providing cable services or video services within the City shall, to the extent permitted by law, pay to the City a fee of five percent (5%) of the gross revenues from such video services provider in the geographic area of the City. Such payment shall be made as required by Section 67.2689, RSMo. The City shall have the right to audit any video services provider as authorized by Section 67.2691, RSMo. Late payments shall accrue interest due to the City compounded monthly at one and one-half percent (1.5%) or such other maximum rate as may be established by law.
- C. *Customer Service Requirements.* All video services providers providing service within the City shall adopt and comply with the minimum customer service requirements set forth in Section 67.2692, RSMo. Notice or receipt of this Chapter by the video services provider shall be deemed notice of the City invoking such customer service requirements.
- D. *Rights-Of-Way Regulation—Indemnification—Permits And Compliance With Other Laws.* Video services providers shall comply with the requirements of Sections 67.2707, 67.2709, RSMo., and all applicable ordinances and regulations consistent with Sections 67.1830 to 67.1846, RSMo., relating to use of the City rights-of-way. Each video services provider shall indemnify and hold harmless the City and its officers, employees and agents from any loss or damage, including, but not limited to, attorneys' fees, as provided in such ordinances or regulations, but in no event less than the obligation on video services providers set forth in Section 67.2695, RSMo. The City may require documentation of such indemnification by written agreement or other instrument to the extent permitted by law. In addition, video services providers shall be subject to and comply with such supplementary provisions relating to placement, screening and relocation of facilities as provided in Section 625.020 of this Chapter, and such other applicable laws of the City, except as may be otherwise validly preempted. Notwithstanding any other ordinance to the contrary, no facilities to be used for video services shall be installed without obtaining a permit from the City authorizing the location and plans for such facilities; provided that this provision shall not apply to installation of otherwise lawful and authorized poles or wires.
- E. *Public, Educational And Governmental Channels.* Each video services provider shall designate a number of channels for public, educational and governmental programming consistent with Section 67.2703, RSMo.; provided that any greater number of channels, as may be required in the incumbent cable franchise or franchise ordinance, shall be required pursuant to Section 67.2703.2, RSMo. The City shall bear no cost relating to the transmission, availability or maintenance of such channels unless expressly authorized by the City in writing and approved by the Governing Body. Incumbent cable operators and other video services providers shall provide support for such public, educational and governmental channels consistent with Section 67.2703.8, RSMo.
- F. *Continued Obligations.* The obligations of a cable service provider or video services provider as

set forth in any existing cable services or video services franchise or ordinance shall also continue to apply to the full extent permitted by applicable law.

- G. *Reservation Of Rights.* The City retains all rights in Sections 67.2675 through 67.2714, RSMo., inclusive, and may take any and all actions permitted by law to exercise such rights or to enforce such obligations on providers of video service.
- H. *Notice.* A copy of this Chapter shall be delivered to each video services provider operating in the City after notice to the City that such provider is authorized to provide service within the City; provided that the provisions of this Chapter shall, to the extent permitted by law, not be affected by any claimed or actual failure of a service provider to have received delivery of a copy of this Chapter.

**SECTION 625.020:****ACCESSORY  
FACILITIES—SUPPLEMENTARY  
REGULATIONS****UTILITY**

- A. Every public utility, cable company, video services provider and other users of the City rights-of-way or adjacent easements to provide services shall comply with the supplemental regulations in this Section regarding the placement of accessory utility facilities on public or private property. For purposes of this Section, "*accessory utility facilities*" shall mean such facilities, including pedestals, boxes, vaults, cabinets or other ground-mounted or below-ground facilities that directly serve the property or local area in which the facility is placed, are not primarily for transmission or distribution to other locations, do not materially alter the character of the neighborhood or area and otherwise are customarily found in such areas.
- B. Except where limited by other provisions of City ordinance, accessory utility facilities shall be subject to the following supplementary regulations:
1. *Approval—design—location—application.* The design, location and nature of all accessory utility facilities on private or public property shall require approval of the City, which approval shall be considered in a non-discriminatory manner, in conformance with this Chapter and subject to reasonable permit conditions as may be necessary to meet the requirements of this Chapter. In considering applications individual or multiple location applications, the City shall review the request to ensure the proposed facilities do not impair public safety, harm property values or significant sight-lines, or degrade the aesthetics of the adjoining properties or neighborhood, and taking into consideration reasonable alternatives. Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approvals as set forth herein. Unless otherwise prohibited, utility facilities subject to this Subsection may be located in minimum setback areas provided that all other requirements are met. To the extent permitted by Section 67.2707.3, RSMo., the time, method, manner or location of facilities to be located in the rights-of-way may be established or conditioned by the City to protect the rights-of-way or to ensure public safety. An inspection fee shall be required as may be established by the City to reimburse the City for the costs of review and inspection of accessory utility facilities as may be permitted by applicable law.
  2. *General regulations.* The following general regulations apply to all accessory utility facilities:
    - a. All such facilities shall be placed underground, except as otherwise provided in [The next page is 743]

Subparagraphs (3) and (4) herein or as approved by special use permit.

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- b. All such facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise.
  - c. All facilities and utility boxes shall be deemed abandoned after six (6) continuous months of non-use, and shall therefore be removed within thirty (30) days thereafter at the cost of the utility.
  - d. Unless otherwise restricted, utility poles for authorized above ground lines or facilities shall be permitted up to forty-five (45) feet in height where utilities are not otherwise required to be placed under ground; provided that such poles shall be no higher than necessary, maintained so as to avoid leaning from upright position, and without use of guy wires crossing rights-of-way or pedestrian routes except where approved by the City as necessary due to the lack of feasible alternatives.
  - e. Utility facilities placed in designated historic areas may be subject to additional requirements regarding the placement and appearance of facilities as may be necessary to reasonably avoid or reduce any negative impact of such placement.
  - f. Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be promptly remedied by the facility owner.
  - g. At least forty-eight (48) hours prior to any installation, replacement or expansion of any facility located on private property, the facility owner shall provide notice to all property owners within one hundred eighty-five (185) feet from the site. Notice shall include a detailed description of work to be done, the exact location of work and the time and duration when it will be undertaken.
  - h. No facilities may be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.
  - i. All utility facilities not authorized by this Subsection or specifically addressed elsewhere in this Code shall be authorized only as a special use permit.
3. *Residential districts.* In residential districts, accessory utility facilities less than three and one-half (3.5) feet in height and covering less than eight (8) square feet in area may be installed above ground with the prior approval of the City. Except as otherwise may be authorized herein, any larger utility facility shall be installed under ground or authorized to be installed above ground only by special use permit. All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless otherwise approved by the City upon a determination that all other alternatives are not feasible.
4. *Non-residential districts.* In non-residential districts, accessory utility facilities with a height of less than five (5) feet and covering less than sixteen (16) square feet in area may be installed above ground with the prior approval of the City. Except as otherwise may be authorized herein, any larger utility facility shall be installed under ground or authorized to be installed above ground only by special use permit. All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be

located in the front yard or within the public right-of-way unless otherwise approved by the City upon a determination that all other alternatives are not feasible.

5. *Landscape screening.* A sight-proof landscape screen shall be provided for all authorized above ground facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screen shall be required to sufficiently conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be submitted by the utility and approved by the City prior to installation of any facility requiring landscape screening. The utility shall be responsible for the installation, repair, or replacement of screening materials. Alternative screening or concealment may be approved by the City to the extent it meets or exceeds the purposes of these requirements. Facilities located in rear yards may be exempted from screening where located so as not to be visible from:
  - a. Any public property, and
  - b. More than two (2) residential dwelling units.
6. *Compliance with other laws.* All accessory utility facilities shall be subject to all other applicable regulations and standards as established as part of the City Code including, but not limited to, building codes, zoning requirements and rights-of-way management regulations in addition to the supplementary regulations herein. The provisions of this Section shall not apply to any circumstance or entity in which application under such circumstances is preempted or otherwise precluded by superseding law.