

JOURNAL OF THE CITY COUNCIL

Regular Session – February 7, 2011

COUNCIL & STAFF PRESENT:

Todd Kuhns	Mayor
Carolyn Chrisman	Councilmember
Richard L. Detweiler	Councilmember
Tony Fajkus	Councilmember
Martha Rowe	Councilmember
Mari Macomber	City Manager
Vickie Brumbaugh	City Clerk
Cherie Bryant	Assistant to the City Manager
John Buckwalter	Public Works Director
Laura Guy	Finance Director
Jim Hughes	Police Chief
Brad Selby	Code Administrator
Melanie Smith	Community Services Director

Absent: Howard Hickman City Attorney

The City Council of the City of Kirksville, Missouri, met in a Regular Session on Monday, February 7, 2011, at 6:00 p.m. in the City Hall Council Chambers.

INVOCATION/PLEDGE

Reverend Aaron Rodgers, of the Southside Baptist Church, gave the Invocation. The Mayor and Council led the Pledge of Allegiance.

MINUTES

Councilmember Chrisman moved to approve the minutes of the regular session of January 3, 2011; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

ORDER OF AGENDA

Councilmember Chrisman moved to approve the Order of the Agenda; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

INFORMATION PRESENTATION & PUBLIC HEARING

Mayor Kuhns opened the Public Hearing at 6:03 p.m. to hear citizen comments regarding a close-out public hearing on the completion of a downtown historic resource survey.

Cherie Bryant explained that the City's Community Development Block Grant application for a downtown historic resource survey was approved in 2009 for \$12,000. Karen Bode Baxter, Preservation Specialist, was awarded the project and provided the City with property inventory forms and a final report evaluating the property's architectural and historical significance under National Register criteria.

There being no further comments, Mayor Kuhns closed the public hearing at 6:08 p.m.

Debi Boughton, Tourism Director, offered the annual Tourism Report along with a new brochure detailing visitors information and a display banner for trade shows. Lodging tax was down from 2009, but there have been less lodgers due to the economy. Mrs. Boughton said she spent a lot of time in 2010 working on essential air service.

CITIZEN PARTICIPATION

John Murphy, 22800 Spencer Lane, spoke on behalf of residents of Spencer Lane. He had sent a letter to the City stating that since MoDOT's construction of the Hwy 63 bypass, Spencer Lane has been split - part of Spencer Lane is in the County, and part in the City. Spencer Lane that goes to Highway 6 poses travel hazards to the residents who use that road due to steep slopes. Mr. Murphy asked if something could be done to make this area of the road safer.

Kevin James of MoDOT was present and addressed the concerns of slopes on the road. He will look at the letter from Mr. Murphy and discuss with the County and the City.

UNFINISHED BUSINESS

None.

ACTION PRESENTATIONS

BILL NO. 2011-1RESOLUTION

NO.

R2-7-611

A RESOLUTION RECOGNIZING RON CELIAN, SERGEANT/DETECTIVE, UPON HIS RETIREMENT AFTER 30 YEARS AND 3 MONTHS OF SERVICE TO THE CITY OF KIRKSVILLE, MISSOURI.

WHEREAS, the City of Kirksville is desirous of recognizing long-term employees; and

WHEREAS, **Ron Celian** worked for the Kirksville Police Department from October 1980 to February 2011; and

WHEREAS, **Ron's** performance of his duties and responsibilities, and his working relationships were always characterized by outstanding diligence to the job while serving in the positions of Police Officer, Corporal, and Sergeant of the patrol and detective divisions; and

WHEREAS, **Ron's** dedicated interest and devotion to duty have had a valuable effect in the safety of the citizens of Kirksville and the investigation of crimes in the City; and

WHEREAS, **Ron Celian** retired on February 4, 2011, after serving the citizens of the City of Kirksville for 30 years and 3 months.

NOW, THEREFORE, BE IT RESOLVED that the City Council extends respect and appreciation on behalf of a grateful City to Ron Celian for his devotion to duty to the citizens of Kirksville.

Councilmember Chrisman moved to approve Bill No. 2011-1; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Mayor Kuhns presented the framed Resolution to Ron Celian.

BILL NO. 2011-2 **RESOLUTION NO. R2-7-612**
A RESOLUTION RE-APPOINTING TWO ELECTED CITY REPRESENTATIVES TO THE MISSOURI SOLID WASTE MANAGEMENT COUNCIL.

WHEREAS, on July 9, 1990, Missouri Governor John Ashcroft signed Senate Bill 530, now known as Missouri's solid waste management law, which is designed to foster local government cooperation to reduce the volume of landfill solid waste in Missouri by 40 percent by 1998; and

WHEREAS, the City of Kirksville has joined its neighbor counties in establishing the Northeast Missouri Solid Waste Management District; and

WHEREAS, the governing body of each City, over 500 population, within the district shall appoint one member of the City governing body to the Solid Waste Management Council and one member of the City governing body as an alternate.

NOW, THEREFORE, BE IT RESOLVED THAT THE City of Kirksville hereby requests that Martha Rowe, being duly elected City official, shall represent the City of Kirksville on the Northeast Missouri Solid Waste Management Council; with Todd Kuhns, being duly elected City official, representing the City as an alternate Councilmember.

Councilmember Chrisman moved to approve Bill No. 2011-2; seconded by Councilmember Fajkus.

Mari Macomber explained that these re-appointments are being considered now, and new appointments will be made after the April election since both officials are not running for re-election. These appointments require elected officials.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

BILL NO. 2011-3
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI APPROVING AND HEREBY DECLARING IT NECESSARY TO CHANGE THE NAME OF A CERTAIN STREET IN THE CURRENT CITY LIMITS OF KIRKSVILLE, MISSOURI.

Councilmember Chrisman moved to approve Bill No. 2011-3; seconded by Councilmember Fajkus.

A Resolution was approved by the City Council for the street name change, and it was advertised for the required four weeks. No comments were received.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

BILL NO. 2011-4

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING TWO LOT SPLITS WHICH ARE PART OF TWO TRACTS OF LAND LOCATED ON OR NEAR 2700 AND 2702 WEATHERSTONE DRIVE IN KIRKSVILLE, MISSOURI.

Councilmember Chrisman moved to approve Bill No. 2011-4 on first reading; seconded by Councilmember Fajkus.

The property owners have requested that Lots 12 and 13 be split. A 20-foot piece of Lot 12 will be split and combined with Lot 11. Lot 13 will be split with the south half later combined with Lot 12. Lot 13 will stand alone as a legal lot.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

BILL NO. 2011-5

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI REZONING REAL ESTATE HEREIN FROM HIGH DENSITY CORRIDOR ZONING TO MEDIUM DENSITY CORRIDOR ZONING, AND CHANGING THE ZONING MAP ACCORDINGLY.

Councilmember Chrisman moved to approve Bill No. 2011-5 on first reading; seconded by Councilmember Fajkus.

Last February the Henson's applied for a zoning change, and the Council approved an extension of the High Density Corridor Zone. The owners were asked to return to the Planning and Zoning Commission within one year with a business plan for the property. The business plan has been presented for a RV and boat storage rental company. The Planning and Zoning Commission has approved the development plan for Medium Density Corridor Zoning.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

BILL NO. 2011-6

ORDINANCE NO. 11950

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE, MISSOURI CONCERNING LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS.

Councilmember Chrisman moved to approve Bill No. 2011-6 on first reading; seconded by Councilmember Fajkus.

To address problems with businesses not in compliance with the Code, suspension and revocation of licenses have been included in the proposed ordinance. The City Attorney has reviewed the ordinance.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

BILL NO. 2011-7 **ORDINANCE NO. 11951**
AN ORDINANCE PROVIDING FOR THE REPEAL OF SECTIONS 14-293 AND 14-294, AND THE DELETION OF WORDING FROM SECTION 14-295, OF ARTICLE XI – GEOGRAPHIC INFORMATION SYSTEM (GIS) OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE, MISSOURI, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

Councilmember Chrisman moved to approve Bill No. 2011-7 on first reading; seconded by Councilmember Fajkus.

After serving six years, the GIS Coordinator announced her resignation last year to pursue a job position in another city. The GIS partners chose to disband, and therefore a repeal of the GIS information from the City Code is necessary.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Street Use for St. Patty’s Day Parade on March 17, 2011

Councilmember Chrisman moved to approve the use of city streets for the St. Patty’s Day Parade on March 17, 2011; seconded by Councilmember Fajkus.

The parade route runs on Elson from McPherson to Illinois. They will set up at 3:00 p.m. with the parade at 5:00 p.m.

The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Liquor License – Steve’s Garden Deli, Inc.

Councilmember Chrisman moved to approve a sale of malt liquor and wine-by-the-drink and restaurant/bar (Sunday sales) licenses to Steve’s Garden Deli, Inc.; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Liquor License – Pickler’s Famous

Councilmember Chrisman moved to approve a sale of intoxicating liquor-by-the drink license to Pickler’s Famous, contingent upon a city license being obtained prior to opening as a new business; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – abstain; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 4 Ayes; 0 Nays; 1 Abstention.

Highway 63 Re-appointment

Councilmember Chrisman moved to approve the re-appointment of Laura Guy for a three-year term on the Highway 63 Transportation Corporation; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Historic Preservation Commission Re-appointment

Councilmember Chrisman moved to approve the re-appointment of Carol Kellum for a three-year term on the Historic Preservation Commission; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Second Reading of Ordinances

BILL NO. 2011-3 **ORDINANCE NO. 11947**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI APPROVING AND HEREBY DECLARING IT NECESSARY TO CHANGE THE NAME OF A CERTAIN STREET IN THE CURRENT CITY LIMITS OF KIRKSVILLE, MISSOURI.

WHEREAS, the construction of Alternate Highway 63 by the Missouri Department of Transportation has cut-off and closed a portion of Spencer Lane; and

WHEREAS, a new road was constructed to connect Spencer Lane to State Highway 6; and

WHEREAS, the now dead-end portion of Spencer Lane needs to be re-named.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

SECTION 1. For purposes of maintaining a standardized method and system of naming streets in the City of Kirksville, and to avoid confusion and duplication of street names, the Kirksville City Council approved a resolution on December 6, 2010, declaring it necessary to change the name of a certain street within the current city limits. The Resolution was placed in the local newspaper for a week, starting on December 10, 2010. No written complaints about the proposed street name change were received by the City Clerk after a four (4) week waiting period.

SECTION 2. The street name change is as follows:

Current Name:	Change to:
Spencer Lane	Bee Lane

SECTION 3. This ordinance shall be in full force and effect from and after the date of its passage.

BILL NO. 2011-4 **ORDINANCE NO. 11948**

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING TWO LOT SPLITS WHICH ARE PART OF TWO TRACTS OF LAND LOCATED ON OR NEAR 2700 AND 2702 WEATHERSTONE DRIVE IN KIRKSVILLE, MISSOURI.

WHEREAS, two tracts of land located on or near 2700 and 2702 Weatherstone Drive within the City of Kirksville, Missouri, which is part of a tract of land being Lots 12 and 13 of Weatherstone Subdivision in the City of Kirksville, Adair County, Missouri, and is incorporated herein by reference, has been regularly certified by Edward A. Cleaver, licensed surveyor number L.S. 1241; and

WHEREAS, the south portion of Lot 12 will later be combined with a Lot Combination with Lot 11; and the south portion of Lot 13 will later be combined with a Lot Combination with the north portion of Lot 12; and

WHEREAS, the three resulting Lots 11, 12, and 13 are more particularly described as follows:

Lot 11 Description:

Lot 11 and the south 20 feet of Lot 12 of Weatherstone Subdivision to the City of Kirksville situated in the Southeast Quarter of Section 17, Township 62 North, Range 15 West, Adair County, Missouri. Beginning at the Southeast corner of Lot 11; thence North 89 Degrees 37 Minutes West a distance of 124.91 feet to the Southwest corner of said Lot 11; thence along the West line of said Lot 11 and its direct Northerly prolongation, North 17 Degrees 24 Minutes East a distance of 120.97 feet to a set iron rod; thence leaving the last described line, South 89 Degrees 40 Minutes East a distance of 124.26 feet to a set iron rod on the East Line of said Lot 12; thence along the East line of said Lot 12 and its direct Southerly prolongation, South 17 degrees 05 Minutes West a distance of 120.89 feet to the Point of Beginning, containing 0.3 acres more or less. Subject to any and all easements of record.

Lot 12 Description:

Part of Lot 12 and the South part of Lot 13 of Weatherstone Subdivision to the City of Kirksville situated in the Southeast Quarter of Section 17, Township 62 North, Range 15 West, Adair County, Missouri. Commencing at the Southeast corner of Lot 11; thence along the East line of said Lot 11 and its direct Northerly prolongation, North 17 Degrees 05 Minutes East a distance of 120.89 feet to a set iron rod also being the Point of Beginning of the description herein, TO WIT: thence leaving the last described line, North 89 Degrees 40 Minutes West a distance of 124.26 feet to a set iron rod on the west line of said Lot 12; thence along the West line of said Lot 12 and its direct Northerly prolongation, North 17 Degrees 24 Minutes East a distance of 129.11 feet to a set iron rod; thence leaving the last described line, South 89 Degrees 40 Minutes East a distance of 123.53 feet to a set iron rod on the East line of Lot 13; thence along the East line of said Lot 13 and its direct Southerly prolongation, South 17 Degrees 05 Minutes West a distance of 128.90 feet to the Point of Beginning, containing 0.4 acres more or less. Subject to any and all easements of record.

Lot 13 Description:

Part of Lot 13 of Weatherstone Subdivision to the City of Kirksville situated in the Southeast Quarter of Section 17, Township 62 North, Range 15 West, Adair County, Missouri. Commencing at the Southeast corner of Lot 11; thence along the East line of said Lot and its direct Northerly prolongation, North 17 Degrees 05 Minutes East a distance of 249.79 feet to a set iron rod; thence leaving the last described line, North 89 Degrees 40 Minutes West a

distance of 123.53 feet to a set iron rod on the West line of said Lot 13; thence along the West line of said Lot 13 and its direct Northerly prolongation, North 17 Degrees 24 Minutes East a distance of 70.00 feet to the Northwest corner of said Lot 13; thence South 89 Degrees 47 Minutes East a distance of 132.76 feet to the Northeast corner of said Lot 13; thence along the arc of a curve turning to the left having a radius of 230.00 feet and a distance of 65.07 feet; thence South 17 Degrees 05 Minutes West a distance of 8.71feet; thence South 17 Degrees 05 Minutes West a distance of 249.79 feet to the Point of Beginning, containing 0.2 acres more or less. Subject to any and all easements of record; and

WHEREAS, the “Plat” shall be recorded in the Recorder’s Office of Adair County, Missouri, showing the complete plat of land created by the Lot Split; and

WHEREAS, the owners of Lots 11 and 12 will perform a Lot Combination to make this a legal lot split, and will file the same with the Adair County Recorder’s office.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

That the lot splits for the two tracts of land located on or near 2700 and 2702 Weatherstone Drive are hereby approved, and the same is made an addition to the City of Kirksville, Missouri, and the portions thereof dedicated to the public are hereby accepted.

BILL NO. 2011-5

ORDINANCE NO. 11949

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI REZONING REAL ESTATE HEREIN FROM HIGH DENSITY CORRIDOR ZONING TO MEDIUM DENSITY CORRIDOR ZONING, AND CHANGING THE ZONING MAP ACCORDINGLY.

WHEREAS, Jamie and Sydney Henson have submitted a development plan for the property known as 3006 N. Baltimore, to have a RV and boat storage rental business and are seeking City Council approval; and

WHEREAS, the real estate is hereinafter described as on or about 3006 N. Baltimore Street and legally described as:

A tract of land situated in the Northeast Quarter of Section 33, township 63 North, Range 15 West, Adair County, Missouri and being more particularly described as follows:

Commencing at the Southwest corner of Lot 1 in Town and Country Meadows Subdivision; thence along the South line of said Subdivision, North 88 Degrees 22 Minutes East a distance of 170.00 feet to the Point of Beginning of the Description herein; TO WIT: thence continuing along said South line, North 88 Degrees 22 Minutes East a distance of 225.10 feet; thence leaving the last described line, South 00 Degrees 05 Minutes West a distance of 420.06 feet; thence North 89 Degrees 55 Minutes West a distance of 225.00 feet; thence North 00 Degrees 05 Minutes East a distance of 413.34 feet; to the Point of Beginning. Subject to any and all easements of record; and

WHEREAS, the land meets the points required under the corridor zoning points system to have a Medium Density Corridor Zone established for this lot; and Mr. Henson has petitioned

for the rezoning of the above described real estate from High Density Corridor Zoning, under Chapter 25, Article XXIII of the Codes of Ordinance of the City of Kirksville, to Medium Density Corridor Zoning, under Chapter 25, Article XXIII of said Code and the changing of the "Zoning District Map" as set forth under Article I of Chapter 25 of said Code in accordance therewith; and

WHEREAS, the request for zoning of the aforesaid lot and the request for approval of the development plan were duly referred to the Planning and Zoning Commission of the City of Kirksville, Missouri, for a public hearing and recommendation; and

WHEREAS, the public hearing was held by the said Planning and Zoning Commission on January 12, 2011, and after hearing thereon, the Planning and Zoning Commission voted to approve the development plan for Mr. Henson and the designation of Medium Density Corridor Zone for the proposed development and has forwarded their recommendation on to City Council; and

WHEREAS, no person spoke in opposition to the rezoning at the said public hearing on January 12, 2011, and no written comments have been received by the City of Kirksville on said rezoning; and

WHEREAS, approval of the development plan will require final approval from city staff to ensure it meets setback requirements, signage, site screening, parking, and building requirements; and

WHEREAS, the petitioner has met the requirements for the development of the described lot known as 3006 N. Baltimore.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

That the above described real estate be, and the same is hereby rezoned from, High Density Corridor Zone District to Medium Density Corridor Zone District and the development plans presented are approved, and the Zoning District Map as set forth under Article I of Section 25-6 of the Zoning Ordinances of said Code shall be changed accordingly.

This ordinance shall be of full force and effect from and after the date of its passage.

[Note: Bill No. 2011-6 appears with extra spacing, tabbing, etc. after the copy/paste transfer from the original document.]

BILL NO. 2011-6 **ORDINANCE NO. 11950**
AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE, MISSOURI CONCERNING LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS.

WHEREAS, the City has had a business licensing ordinance in place since 1974;

WHEREAS, the City has determined there has arisen a need for additions, rewording and clarifications in requirements prior to issuance or renewal of a business license; and

WHEREAS, the City would also like to include provisions to enhance enforcement and to impose penalties for violations of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

SECTION ONE: The following sections will be revised where applicable. Deletions are marked by strikethroughs while new language is in bold.

ARTICLE II. - BUSINESSES, OCCUPATIONS, PROFESSIONS OR SERVICES

Sec. 14-16. Definitions.

City. Reference to City of Kirksville.

~~City clerk, city collector, city license inspector, or license inspector.~~ The clerk of the city or his designated deputies **authorized by the city council.**

Contractor or subcontractor. Any person who agrees or contracts with another, for a fee or consideration to build, construct, remodel, plaster or aid in building, constructing, remodeling or plastering any building, or any structure, driveway, sidewalk, street or utility line in the city, or any person who builds any structure of any kind, for sale in the city, except one who, for himself, builds a home or structure to be occupied by himself.

~~Gross sales receipts.~~ **Gross revenue** ~~Gross receipts,~~ gross proceeds, gross annual commissions and fees from business transacted or carried on within the city, **including retail and wholesale**, except state and federal direct excise, sales, use and gasoline taxes.

Gross receipts fee. Fee based on gross receipts and due on a quarterly basis by an applicable business that is subject to assessment on gross receipts, which said fee shall be in the amount of fifty cents (\$.50) per one thousand dollars (\$1,000.00) of gross receipts exceeding thirty thousand dollars (\$30,000.00).

~~License and licensee.~~ Respectively, the words "permit" or "permittee" or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Code or other law or ordinance. **Any license required to be secured under this article.**

License year. The term that a license is valid, unless otherwise provided, shall mean the year beginning March 1, or in the case of businesses newly established at the beginning of doing business, and ending on the last day of February of the following year.

~~Merchant license.~~ Used to describe the city business license issued on behalf of the City of Kirksville and the county business license issued on behalf of the County of Adair to a merchant or manufacturer as so defined.

Person. In this chapter, the word "person" shall include any individual, group of individuals, trust, trustee, cooperative, partnership, **corporation**, estate, administrator or executor.

~~Sales at retail. Any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to a purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration. (Per RSMo. § 144)~~

~~Sec. 14-17. Performance bond; certificate of insurance.~~

- ~~(a) — Every person engaging in a business for which a performance bond shall be required shall, in addition to the license fee provided for in division 2 of this article, deposit with the city clerk a surety bond in the sum of one thousand dollars (\$1,000.00), unless otherwise specified, executed by a surety company authorized to transact business in the state, conditioned upon the faithful compliance with the provisions of this Code and other ordinances of the city. Such bond shall also be conditioned to indemnify or reimburse the city or any purchaser of goods, wares, merchandise or services in a sum equal to the amount of any payment for damage, which the city may suffer or which such purchaser may have been induced to make through misrepresentation or fraud.~~
- ~~(b) — In lieu of such a performance bond, every person engaging in a business for which a performance bond would otherwise be required, may deposit with the city clerk a certificate of liability insurance in an amount not less than twenty-five thousand dollars (\$25,000.00).~~
- ~~(c) — In the event that any such person shall fail to deposit such a performance bond or certificate of insurance with the city clerk as herein provided, or in the event that any such performance bond or certificate of insurance deposited with the city clerk shall be cancelled, then the license of such person to engage in such business shall be suspended immediately.~~

~~Sec. 14-517. Payment, duration; multiple businesses, premises.~~

- ~~(a) Every person engaged in any of the businesses, occupations, professions or services described in this **section** ~~division~~ shall pay the license fees set forth in this **section** ~~division~~ which shall be annual and which shall be due and payable and issued on or before the first day of March of each year and be valid until the last day of February of the following year.~~
- ~~(b) Any person operating both a retail and wholesale business on the same store premises, **shall** may purchase both wholesale and retail merchant licenses, however, such person shall and compute the **gross receipts fee tax collectively** from their gross wholesale and gross retail **receipts**. sales separately. at the applicable rates or purchase a retail- merchant license only and compute the tax on all their gross wholesale — and retail sales at — the retail gross sales rate. In no event shall a wholesale license alone be issued to a business or tax on gross wholesale rates be permitted to any merchant whose actual sales are less than ninety (90) percent wholesale transactions.~~
- ~~(c) Where two (2) or more retail sales licenses are required for a person to operate a business on one (1) premises, such person may combine all his gross **receipts sales** from all such retail transactions for computing the **gross receipts fee tax** thereon.~~
- ~~(d) Where an additional retail license is required for a **person** merchant to operate his business on one (1) or more separate premises, such person may combine all his gross **receipts sales** from all such retail transactions from all premises for computing the **gross receipts fee tax** thereon.~~

- (e) **No refund shall be made on any gross receipts fee, license fee or investigation fee imposed under this chapter due to the cessation of the business during any license year.**

Sec. 14-5218. Licenses required by article in addition to alcoholic beverage and motor vehicle licenses.

- (a) In addition to any applicable ~~merchant or business~~ license listed in this **article** ~~division~~, any person offering for sale, selling, storing or allowing the consumption of intoxicating liquor or nonintoxicating beer on their premises shall also purchase the license required for sale.
- (b) In addition to any applicable ~~merchant or business~~ license listed in this **article** ~~division~~, any person using any motor vehicle for the furtherance, delivery or in any manner about the promotion of their business shall purchase the required state motor vehicle license for the same.

Sec. 14-5319. Fee based on gross **receipts sales** generally.

- (a) Unless otherwise provided, every person engaged in a business ~~on for~~ which **the gross receipts fee sales** shall be assessed, shall pay fifty cents (\$0.50) per one thousand dollars (\$1,000.00) on gross **receipts sales** exceeding thirty thousand dollars (\$30,000.00). A penalty charge of one and one-half (1½%) percent per month shall be assessed as a penalty for delinquent payment of gross **receipts fee sales tax**.
- (b) All persons engaging in a business ~~on for~~ which **the gross receipts fee sales tax** shall be assessed, shall submit quarterly reports to the city clerk on forms provided by the city of their gross **receipts sales** for each period.
- (c) The quarterly reports are due not later than **January 30**, April 30, July 30, ~~and~~ **October 30** ~~and January 30~~ of each year.

Sec. 14-5420. ~~Residents~~ Gross **receipts fee sales tax** required, no performance bond.

- (a) All persons, merchants, agents, peddlers, salesmen, businesses, or their representatives, before offering any item, product, merchandise, service or commodity for sale shall make application for renewal or new annual ~~city resident merchant business~~ license, and such person may commence business upon issuance of such license.
- (b) No renewal application will be accepted or renewal license issued if ~~gross sales tax or any taxes owed the city remain outstanding~~ **unless in compliance with the provisions of section 14-33(c)**.
- (c) Gross **receipts fee sales tax** shall be imposed upon all businesses located within the city engaged in the business of selling tangible personal property or rendering taxable services at retail or wholesale as set out in section 14-5319.
- (d) The annual license fee applicable to all businesses subject to this section is ten dollars (\$10.00), with the following exceptions:
- (1) Billiard parlors, each table
\$10.00
 - (2) Bowling alleys, each alley
\$10.00
 - (3) Dairy products, wholesale distribution
\$35.00

Sec. 14-5521. ~~Same~~-Performance bond required, ~~no net~~ gross receipts fee sales tax.

- (a) All persons, merchants, agents, repairmen or their representatives listed below, unless a member of a licensed firm in another section, shall, before repairing or installing any item, product, merchandise, service or commodity, make application for renewal or new ~~annual~~ ~~city resident merchant~~ license, pay the ten dollar **(\$10.00)** investigative fee, **if applicable**, and ~~if applicable~~ **deposit the required the annual** license fee. Such person may commence business upon issuance of the license.
- (b) No renewal application will be accepted or renewal license issued ~~if any taxes owed the city remain outstanding~~ **unless in compliance with the provisions of section 14-33(c).**
- (c) Besides the annual license fees set out below, each of the ~~resident and local~~ persons, merchants, agents, repairmen or their representatives listed below shall be required to post a performance bond **or certificate of liability insurance** with the city, but shall not be required to pay a **gross receipts fee** tax on their gross receipts sales as set out in section 14-5319.
 - (1) Plumbers, whether a member of plumbing firm or not
\$25.00
 - (2) Contractors, general contractors, subcontractors, builders, or carpenters who perform work on, upon or within public rights-of-way and/or public property (~~excluding routine construction of driveways~~), and including but not limited to the following: ~~Excavating companies and excavating contractors; contractors and subcontractors for building, constructing or installing buildings or structures or any part thereof~~
\$25.00
- (d) **Every person engaging in a business for which a performance bond shall be required shall, in addition to the license fee provided for in this section, deposit with the city clerk a surety bond in the sum of one thousand dollars (\$1,000.00), unless otherwise specified, executed by a surety company authorized to transact business in the state, conditioned upon the faithful compliance with the provisions of this article and other ordinances of the city. Such bond shall also be conditioned to indemnify or reimburse the city or any purchaser of goods, wares, merchandise or services in a sum equal to the amount of any payment for damage, which the city may suffer or which such purchaser may have been induced to make through misrepresentation or fraud.**
- (e) In lieu of such a performance bond, every person engaging in a business for which a performance bond would otherwise be required, may deposit with the city clerk a certificate of liability insurance in an amount not less than twenty-five thousand dollars (**\$25,000.00**).
- (f) In the event that any such person shall fail to deposit such a performance bond or certificate of insurance with the city clerk as herein provided, or in the event that any such performance bond or certificate of insurance deposited with the city clerk shall be cancelled, then the license of such person to engage in such business shall be subject to immediate revocation.

Sec. 14-5622. ~~Same~~-Neither performance bond nor gross receipts fee sales tax required.

- (a) All persons, merchants, agents, peddlers, salesmen, businesses, or other representatives listed below, before offering any item, product, merchandise, service or commodity for sale shall make application for renewal or new ~~annual~~ ~~city resident~~

merchant license, pay the ten dollar **(\$10.00)** investigative fee, if applicable, and deposit the required **the annual** license fee. Such person may commence business upon issuance of the license.

- (b) No renewal application will be accepted or renewal license issued if ~~any taxes owed the city remain outstanding~~ **unless in compliance with the provisions of section 14-33(c).**
- (c) This section is applicable to businesses whose revenues are based on fees or commissions for services provided for hire or to a manufacturing business of any kind, with the exception of those professions so named under RSMo. § 71.620. These businesses shall not be required to post any performance bond with the city nor pay any **gross receipts fee tax** on their **gross receipts sales**, unless otherwise specified.
- (d) The annual license fee applicable to all businesses subject to this section is ten dollars (\$10.00), with the following exceptions:
- (1) Advertising on walls, buildings, fences and billboards, per display
\$10.00
 - (2) Auctioneers (who maintain a business office in the city)
\$25.00
 - (3) Automatic selling machine or devices, each machine
\$1.00
 - (4) Banks, banking corporations, trust companies, savings and loan associations, brokerages, brokers
\$100.00
 - (5) Hairdressing shops and schools, manicurists, masseurs, annual fee and first chair
\$10.00
Each additional chair
\$5.00
 - (6) Sales barns (cattle or general), stockyards
\$100.00
 - (7) Contractors, general contractors, subcontractors, builders, repairmen or carpenters, who do not perform work on, upon or within public right-of-way and/or public property
\$25.00
 - (8) Finance companies
\$150.00
 - (9) Garbage and trash haulers, whether with established daily or weekly routes or for occasional hire
Sanitary closed-in metal covered disposal bed or properly covered bed, each truck
\$10.00
Truck bed covered per ordinance, each truck
\$25.00
 - (10) Guarantors of land titles
\$50.00
 - (11) Health school
\$50.00
 - (12) Hotels and motels, each room
\$1.00
 - (13) House movers (movers shall possess applicable state motor vehicle license, in addition to: purchase from the city an individual permit and license for each

house, dwelling or building of six hundred fifty (650) square feet or more to be moved at a cost of one hundred dollars (\$100.00) for such structure; purchase from the city an individual permit and license for each garage, shed or small building of less than six hundred fifty (650) square feet at a cost of twenty-five dollars (\$25.00) for such structure. Such mover shall also provide a performance bond of two thousand five hundred dollars (\$2,500.00) for each structure of over six hundred fifty (650) square feet to be moved and a performance bond of one thousand dollars (\$1,000.00) for each structure under six hundred fifty (650) square feet to be moved as well as use of proper warning devices, flares and proceed only with a police escort and otherwise comply fully with the provision of chapter 15) **\$25.00**

- (14) Insurance agency, with up to two (2) member insurance agents
\$10.00
 - Each additional resident member agent
\$5.00
 - Each additional itinerant or nonresident member agent
\$25.00
- (15) Laundromats and self-service laundries, each laundry machine and dryer
\$1.00
- (16) Laundry agencies
\$50.00
- (17) Manufacturers and manufacturing business
\$25.00
- (18) Movie theaters and drive-ins (besides applicable concession license)
 - Each seat
\$.10
 - Each drive-in stall **\$**
.25
- (19) Newspaper publisher
\$50.00
- (20) Radio station
\$50.00
- (21) Real estate agencies maintaining a business office in the city with up to two (2) member realtors
\$10.00
 - Additional local resident members or salesmen, each
\$5.00
 - Additional itinerant members of salesmen, each
\$25.00
- (22) Real estate agents (who maintain a business office in the city)
\$10.00
- (23) Real estate brokers (who maintain a business office in the city)
\$10.00
- (24) Real estate salesmen (who maintain a business office in the city)
\$10.00
- (25) Slot machines, each machine
\$1.00
- (26) Storage warehouses for rental, each unit
\$10.00

- (27) Television stations
\$100.00
- (28) Theatrical agents
\$25.00
- (29) Vending machines, each machine
\$1.00

Sec. 14-1823. Notice of expiration.

The city clerk shall cause a notice to be mailed to each person licensed under this article on or before February first of each year informing him that his license shall expire on the last day of February of that year, unless otherwise renewed.

Sec. 14-1924. Inspection—Designation and duties of inspector generally; confidentiality of information received.

- (a) *Designation.* The city clerk ~~and any other deputies authorized by the city council~~ shall act as license inspectors on behalf of the city.
- (b) *Duties.* The city clerk, ~~deputies in his office and other designated deputies~~ shall accept all applications for licenses provided by this article, shall investigate all applications and, upon investigation, recommend to the city council that the license sought under the provisions of this article be either issued or not issued and shall also:
 - (1) Promulgate and enforce all reasonable rules and regulations approved by the city council.
 - (2) Adopt all forms as prescribed, the information to be given herein as to character and other relevant matters for all necessary papers.
 - (3) Require applicants to submit all affidavits and oaths necessary to the administration of this article.
 - (4) Submit all applications, in a proper case, to interested city officials for their endorsements thereon, as to compliance by the applicant with all city regulations which they have the duty of enforcing.
 - (5) Investigate and determine the eligibility of any new applicant for a license as prescribed herein, and the city clerk and his deputies shall be entitled to a reasonable time in which to conduct such investigation.
 - (6) Examine, with the express consent of the city council and the assistance of an auditor, the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this article, and then only to such extent necessary to obtain an accurate gross **receipts sales** amount. If a variance of the more than ten (10) percent of an underpayment to the city is disclosed from such audit, the cost shall be borne by such licensee, and such deficit plus a ten (10) percent underpayment penalty shall be assessed and paid to the city.
In addition, proof of gross sales **receipts** can be obtained by requesting a copy of the applicable federal income tax forms as filed for the year(s) in question or through sales tax reports as filed with the state for the period(s) in question.
 - (7) Notify any applicant of the acceptance or rejection of his application; and shall, upon his refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
- (c) *Confidential information.* The city clerk, his deputies and the city council shall keep all information, which is designated as confidential, furnished or secured under the

authority of this article in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known, except to the persons charged with the administration of this article. Any city officer or city employee disclosing confidential information under this subsection shall be subject to immediate dismissal.

Sec. 14-2025. ~~Same~~ Persons authorized to inspect; authority of inspectors; reports of inspectors.

- (a) *Persons authorized to make inspections.* The following persons are authorized to conduct inspections in the manner prescribed herein:
- (1) The city clerk ~~and his authorized deputies~~ shall make all investigations reasonably necessary to the enforcement of this article, including the auditing and checking of all books and records of any licensed business.
 - (2) All police officers shall inspect and examine businesses located within their respective jurisdictions ~~or beats~~ to enforce compliance with this article, when so directed by the city clerk ~~or his deputies~~.
- (b) *Authority of inspectors.* ~~The city clerk and all police officers~~ **All persons designated as deputies** shall be authorized herein to inspect persons, licensees and businesses. **The city clerk and all police officers** Any ~~authorized deputy~~ may request any person observed in the act of selling or peddling for such person's identification and the city ~~merchant's license card~~. All authorized deputies shall have the authority to enter, at all times, the following premises:
- (1) Those premises for which a license is required.
 - (2) Those premises for which a license was issued and which, at the time of inspection, is operating under such a license.
 - (3) Those premises for which **the business is operating under a revoked license or the licensee is in noncompliance with this article** ~~license has been revoked or suspended~~.
- (c) *Reports—Generally.* Persons inspecting licensees, persons, their businesses or premises as herein authorized shall report all violations of this article or other laws or ordinances to the city clerk and shall submit such other reports as the city clerk or the city council shall order.
- ~~(d) *Same Report of no license.* When the city clerk, an authorized deputy, police officer or inspector has reported that a person is operating any business subject to licensing under this article or under any law or ordinance of the city, and that such person does not have a valid license or is operating such business when license has been revoked or suspended, the city clerk shall request the chief of police to immediately cause the arrest of such person and seek immediate prosecution of such offender.~~

Sec. 14-2126. Conduct of business without license.

Any person required by this **article** ~~chapter~~ to obtain a license ~~or permit~~, who shall engage in any business, occupation, pursuit, profession or trade, or keep or maintain any institution, establishment, article, utility or commodity for which such license is required, without first procuring and paying for such license; and every manager, agent, officer or employee of any such person who shall assist any such person in engaging in such unlicensed activity after receiving notice that such person has not procured and paid for such license; and any person, including any such manager, agent, officer or employee, who knowingly makes any false statement in any application for any such occupational license as

to any gross annual business, annual gross receipts, gross annual commissions or as to any other conditions or factors upon which such license fee is or shall be based, shall be ~~guilty of a misdemeanor~~ **subject to the penalties set forth for a violation of this article.**

~~Sec. 14-2227. Payment of gross sales tax prerequisite to renewal.~~ **Refusal to issue license when unpaid obligations due to city or state.**

~~No renewal license shall be issued to any person required to pay gross sales tax, whose gross sales tax is outstanding for any previous period. Failure to pay such tax prior to March 1 of any year shall prohibit such person from operating his business until so complying, and shall make him subject to the penalties set forth for a violation of this article.~~

- (a) **Gross receipts fee.** No renewal license shall be issued to any person required to pay the gross receipts fee if such fee, wholly or partially, is outstanding for any previous license period.
- (b) **City obligations.** No license, initial or renewal, required under the provisions of this article shall be issued to any person until all personal property taxes, real property taxes, merchants' or manufacturers' ad valorem taxes, license or permit fees, due and unpaid, are paid in full, including all penalties thereon. Likewise, any other financial obligation due and owing from the person to the city shall be paid in full prior to the issuance of any license required hereunder.
- (c) **State obligations.** No license, initial or renewal, required under the provisions of this article shall be issued to any person until a no tax due clearance letter is provided from the State of Missouri, dated no earlier than ninety (90) days prior to the date of license application or renewal submission.

~~Sec. 14-2328.~~ Special sales, etc.

This article shall apply to all business in the nature of special or other sales for which a license is required by this article or any other ordinance of the city. It shall be unlawful for any person, either directly or indirectly, to conduct any such sales except in conformity with the provisions of this article.

~~Sec. 14-2429.~~ Acts constituting "doing business"; agents of nonresidents or itinerants to obtain license.

- (a) For the purposes of this article, any person shall be deemed to be in business or engaged in nonprofit enterprise, and thus subject to the requirements of subsections (1), (2) and (3) of this section, when he does one (1) act of:
 - (1) Offering or selling any goods or service.
 - (2) Soliciting business or offering goods or services for sale or hire.
 - (3) Acquiring or using any vehicle or any premises in the city for business or sales purposes.
- (b) The agents or other representatives of nonresidents or itinerants who are doing business in this city shall be personally responsible for the compliance of their principals and of the businesses they represent with this article.

~~Sec. 14-2530.~~ Branch establishments; separate occupations; delivery of purchased goods.

- (a) A license shall be obtained in the manner prescribed in this article for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this article shall not be deemed to be separate places of business or branch establishments.
- (b) Every person engaged in more than one (1) occupation, where all such occupations are operated under the same management and at the same location, shall pay a license fee for each occupation, and the gross **receipts fee sales** on the receipts of these occupations, if so required, shall be paid on each occupation so licensed. This provision shall also apply in the case of contractors who may engage in more than one (1) type of contracting.
- (c) No license shall be required of any person for any mere delivery in the city of any property purchased or acquired in good faith from any person at a regular place of business more than one (1) mile outside the city, where no intent by such person is shown to evade the provisions of this article.
- (d) The conduct of business at one (1) location by separate legal entities shall require each to be separately licensed. The mere location of one (1) legal entity on another legal entity's premises shall not preclude each entity from being required to have a separate business license.

Sec. 14-2631. Separate licenses required for concession stands, lunch counters, etc.; branch establishments.

- (a) Any food or beverage concession stand, lunch counter or vending machine maintained on the same premises of or operated in connection, with another licensed business shall require a separate license. However, any applicable **gross receipts fee tax** on gross **receipts sales** from such a concession stand, lunch counter and any other similar business **shall may** be computed together.
- (b) Where more than one (1) branch establishment, which is separate and apart from the main premises, is required to operate the same and main business listed in this section, each additional premises shall pay a license fee of one-half the charge for the main business premises. However, this provision is not applicable to separate businesses owned by the same person, even though they may be the same type of business.

~~Sec. 14-27. Special permits.~~

- ~~(a) *Persons eligible.* The city clerk shall issue special permits, with the payment of any license fees or other charges therefor, to any person for the conduct or operation of a nonprofit enterprise, either regularly or temporarily, when he finds that the applicant operates without private profit for a public, charitable, educational, literary, fraternal or religious purpose.~~
- ~~(b) *Application.* An applicant for a special permit shall submit an application therefor to the city clerk, upon forms prescribed by the city clerk, and shall furnish such additional information and make such affidavits as the city clerk shall require.~~
- ~~(c) *Compliance with article.* A person operating under a special permit shall operate his nonprofit enterprise in compliance with this article and all other applicable rules and regulations, except as provided herein.~~

Sec. 14-2832. Qualifications of applicants generally.

The general standards herein set out relative to the qualifications of every applicant for a city license shall be considered and applied by the city clerk. The applicant shall:

- (1) *Character.* Be of good moral character. In making such determination the city clerk shall consider:
 - a. All convictions, the reason therefore and the demeanor of the applicant subsequent to the applicant's release. Any prior misdemeanor or felony conviction within five (5) years of the date of the application involving the offense of theft, stealing, fraud or deceptive practices, or involving an offense relating to the conduct of the business or occupation for which the license is sought.
 - b. The license history of the applicant: Whether such person in previously operating in this or another state under a license, has had such license revoked or suspended, the reasons therefor and the demeanor of the applicant subsequent to such action.
- (2) *Obligations to city.* Not be in default under the provisions of this article or indebted or obligated in any manner to the city, except for current taxes.
- (3) *Compliance with zoning regulations.* The proposed use of any premises will not be in violation of any city zoning ordinances.
- (4) *Compliance with fire code inspections.* The premises of the business will be in compliance with city fire code prior to opening of the business.
- (5) **State sales tax license. Present a valid Missouri sales tax license showing that the business is authorized under Missouri law to operate within the Kirksville city limits and not be in default of payment of Missouri state sales tax.**
- (6) **Property maintenance. The premises of the business will not be in violation of any city property maintenance code.**
- (7) **Evidence of workers' compensation. Present a copy of certificate of insurance for workers' compensation coverage if required by the State of Missouri.**

Sec. 14-2933. Issuance procedure generally.

- (a) *Applications generally; fees.* Every person required to procure a license under the provisions of this article from the city shall submit a written application for such license to the city clerk. The application shall:
 - (1) Be a written statement on forms provided by the city clerk. Such forms shall include an affidavit, which shall be sworn to by the applicant before a notary public of this state.
 - (2) Require the disclosure of all information necessary to comply with section 14-2832 and of any other information which the city clerk shall find to be reasonably necessary to the fair administration of this article.
 - (3) Be accompanied by the full amount of the fees chargeable for such license.
 - (4) Except for persons previously licensed to do business within the city on February 20, 1965, such application shall be also accompanied by payment of a fee in the amount of ten dollars (\$10.00) to cover the cost of investigation.
 - (5) If applicable, provide a copy of a sales tax license showing the authority to make sales within the **city of Kirksville and state of Missouri in addition to providing a no tax due clearance letter from the State of**

Missouri, dated no earlier than ninety (90) days prior to the date of license application submission.

- (b) *Receipts.* Whenever a license cannot be issued at the time the application for the same is made, the city clerk shall issue a receipt to the applicant for the money paid in advance, subject to the following conditions: Such receipt shall not be construed as the approval of the city clerk for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this article.
- (c) *Renewal licenses.* All licenses issued under this ~~article~~ **chapter** shall be renewed upon the payment of the prescribed annual **license fee and completion of the appropriate license renewal application.** Such renewal shall require:
- (1) The disclosure of such information concerning the applicant's demeanor and conduct in the operation of applicant's business during the preceding licensing period in order to determine the applicant's eligibility for a renewal license. This determination is subject to the same criteria as set in section 14-28(1)~~32~~.
 - (2) That no renewal application will be considered or license issued thereon unless all outstanding gross **receipts fees sales tax or other obligations due the city have** due has been paid.
 - (3) **That no renewal application will be considered or license issued thereon unless all Missouri state sales taxes are current and a no tax due clearance letter is provided from the State of Missouri, dated no earlier than ninety (90) days prior to the date of license application or renewal submission.**
 - (4) That no renewal application will be considered or license issued thereon unless there has been compliance with the city fire code as determined by the city fire chief.
 - (5) **That no renewal application will be considered or license issued thereon unless there has been compliance with the city property maintenance code as determined by the city codes and planning director.**
- (d) *Duplicate licenses; special permits.* A duplicate license or special permit under this article shall be issued by the city clerk to replace any license previously issued, which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit, sworn to before a notary public of this state, attesting to such fact and paying to the city clerk of a fee of one dollar (\$1.00).
- ~~(e) Effective with the March 1, 2001 license renewal period, the city will be responsible for the administration and collection of fees on behalf of the County of Adair for the issuance of a county merchant license to applicable businesses. A city and county license will be issued simultaneously to those businesses so required and who fulfill all necessary prerequisites as outlined in this section. A twenty-five dollar (\$25.00) fee will be charged for each county license issued; see applicable section 14-54 or section 14-56 for city license fee. Failure to obtain a city and/or county license when so required will be in violation of this article and will subject a business to enforcement action provided in section 14-21.~~

Sec. 14-3034. Issuance by clerk; contents.

- (a) Upon the receipt of an application for a license under this article and the receipt of all fees therefor, the city clerk shall conduct an investigation of the applicant; such investigation shall include a report from the zoning administrator, the chief of police,

fire chief and health officer if appropriate. Upon the completion of the investigation, the city clerk shall issue or deny the license on the basis of the investigation.

- (b) Any applicant whose application was denied, may request that his application be submitted to the city council for their review.
- (c) Each license issued under this article shall state upon its face the following:
 - (1) The name of the licensee and any other name under which such business is to be conducted.
 - (2) The kind and address of each business so licensed.
 - (3) The dates of issuance and expiration thereof.
 - (4) Such other information as the city council, ~~or the city clerk or his deputies~~ shall determine to be necessary.
- (d) **The license required prior to commence business operations shall be issued to a licensee within sixty (60) days of receiving all documents, applications, fees and other items required to process such license.**

Sec. 14.3135. Procedures on nonapproval of application.

When any license under this chapter is not approved, the following shall apply:

- (1) *Certain fees refunded.* The city clerk shall, upon disapproval by the city council of any application submitted under the provisions of this chapter refund all fees paid in advance, other than the investigation fee to the applicant; provided, that the applicant is not otherwise indebted to the city. If the applicant is indebted to the city, such fees tendered shall be retained by the city, to be applied against such indebtedness.
- (2) *Engagement in business.* When the issuance of a license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which such license was refused, unless a license be issued to him pursuant to a judgment ordering the same.
- (3) ***Written notification.* If a license cannot be issued within sixty (60) days of a license application submission, the city clerk shall notify the applicant in writing with an explanation of the deficiency within five (5) days of such determination.**

Sec. 14-3236. Duties of licensee generally.

- (a) *General standards of conduct.* Every licensee under this article shall:
 - (1) Permit all reasonable inspections of his business and examinations of his books by the city clerk and his designated deputies, subject to the provisions of section 14-1924.
 - (2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
 - (3) Avoid fraud, misrepresentation or false statements made in the course of carrying on his business, avoid conducting his business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
 - (4) Refrain from operating the licensed business on premises after expiration of his license and during the period his license is revoked ~~or suspended~~.
 - (5) Allow fire inspections at the licensed premises of the business and maintain compliance with city fire code at licensed premises. ~~n~~Noncompliance with city

fire code at licensed premises may subject the licensee to possible revocation of the applicable business license.

(6) Allow property code inspections at the licensed premises of the business and maintain compliance with the city property maintenance code at licensed premises. Noncompliance with the city property maintenance code at licensed premises may subject the licensee to revocation of the applicable license.

(7) Keep current on all city obligations and all Missouri tax obligations. Failure to keep current on all such obligations may subject the licensee to revocation of the applicable license.

(b) *Display of license and card, if applicable.* Every licensee under this article shall:

(1) Post and maintain his license or insignia upon the licensed premises in a place where it may be seen at all times.

(2) The following shall apply to the display of licenses and cards on vehicles:

a. Any general or special license fee required for any kind of vehicle, for the privilege of being operated upon the public highways, by any statute or ordinance, shall not be abrogated, limited or affected by any requirements of this article.

b. Affix any insignia delivered for use in connection with a licensed motor vehicle on the inside of the windshield of the vehicle or as may be otherwise prescribed by the city clerk or by law.

c. Affix any metal or other durable type of insignia delivered for use in connection with a wagon or other vehicle not operated by motor power securely on the outside of such vehicle.

(3) **If applicable, a** A person shall carry an identification license card on his person when off his licensed business premises or when he has no licensed business premises.

(4) Affix any insignia delivered for use in connection therewith upon the outside of any coin, vending or other business machine or device, so that it may be seen at all times.

(c) *Inoperative licenses, special permits and insignia.* A licensee shall not allow any license, special permit or insignia to remain posted, displayed or used after the period for which it was issued has expired, or when it has been ~~suspended~~, revoked or for any other reason becomes ineffective.

(d) *Use of license, etc., by person other than licensee.* No licensee shall loan, sell, give or assign to any other person, or allow any other person to use or display or to destroy, damage or remove or to have in his possession, except as authorized by the city clerk or by law, any license or insignia which has been issued to such licensee.

(e) *Change of location.* A licensee shall have the right to change the location of the licensed business; provided, that he shall notify the city clerk **prior to** ~~of~~ the change of location. Change in business location will require an investigation by the zoning administrator, the chief of police, fire chief and health officer if appropriate to determine whether business can be conducted and a business license can be issued for that location.

(f) *Records.* A licensee shall keep all records and books necessary to the computation of his **gross receipts** license fee, **if applicable**, and to the enforcement of this article. The city clerk shall make his own determination as to the financial statement for any business where the licensee has failed to keep books and records as required herein.

(g) Indefinite cessation of operations. The licensee shall 1) notify the city in writing of sale of business or indefinite cessation of business operations in Kirksville and

- 2) **surrender the license within seven (7) days of doing so. Failure to do so is a violation of this article.**

~~Sec. 14-33. Transfer; surrender on sale or cessation of business.~~

~~No licensee under this chapter shall have the right to transfer his license to another person, but shall notify the business license clerk when he sells his business or ceases operation of the same.~~

Sec. 14-~~34~~**37**. Persons exempted from article.

(a) The terms of this chapter shall not be interpreted to include persons selling for nonresident, bona fide wholesale establishments to retail dealers in the city, nor to **delivery persons** ~~milkmen, icemen or newsboys~~ whose employers have been duly licensed by the city, nor shall it include or apply to farmers or producers, or any employee of any farmer or producer, who offers for sale or sells any market fruits, vegetables or garden products and grown by such farmer or producer from lands cultivated by him within the state of **Missouri**. All attractions, devices, races or exhibitions under direct contract with the Northeast Missouri Fair Association are exempt from the provisions of this chapter.

(b) **A person under the age of eighteen (18) years provided such person meets all of the following requirements:**

- (1) **The minor person conducting business is currently enrolled in school and has not yet graduated from high school,**
- (2) **The business activity is conducted only during spare time from school or during school vacation,**
- (3) **The business activity produces not more than one thousand dollars (\$1,000.00) in gross receipts during any calendar year, and any profits there from accrue only to the minor person conducting the business,**
- (4) **Employ no person over the age of seventeen (17) years in the business for wages, salary, hire or profit,**
- (5) **All laws, state and local, are complied with in conduct of business activity.**

Sec. 14-~~35~~**38**. Compliance of wholesale dairy products distributors with city license requirement.

Effective from and after September 3, 1974, each and every wholesale distributor of dairy products will be required to have a city license, in accordance with section 14-~~54~~**20**.

Sec. 14-~~57~~**39**. ~~Daily fees for special events~~ **Special event requirements and daily fees.**

(a) It shall be unlawful for any person, firm or corporation to conduct the special events listed herein without first obtaining a **license permit** from the city **clerk** ~~finance department~~. Some amusements also require licensure and/or inspection by the state. Proof of state license and/or registration may also be required to obtain a local **license permit**. Proof of insurance (if the event is held on city property) and the payment of a fee is required for the following special events:

Carnivals and street fairs/exhibitions.
Circuses and rodeos.
Amusement rides and side shows/stands.

(b) The license fee for the special events listed above shall be as follows:

DaysFee

1 to 3\$ 25.00

4 to 7\$ 50.00

8 and over ...\$100.00

(c) When special events are held on right-of-way property owned by the city, a **license permit** will not be issued until the sponsoring organization or person(s) provides proof of insurance in the form of a certificate separately naming the city as an additional insured in an amount equal to the city's maximum policy limits for the period of time encompassed by the special event. The sponsor(s) shall also be required to sign a hold harmless agreement with the city.

(d) The city may also require, as a condition of **license permit** issuance, the inspection of the special event location, including any buildings, tents, etc., and may also require the issuance of sanitation or health department approval where appropriate.

Sec. 14- Requirement for issuance of building permits.

(a) **All contractors and all subcontractors shall procure a license and pay a license fee prior to engaging in operations within the city, and shall be subject to the provisions under this article. No license shall be required of any person performing repair or remodeling work on their own property.**

(b) **No building permit shall be issued by the city to any contractor or subcontractor, for the construction, erection or the remodeling of any residence, building, bridge, stonework, street, sidewalk, driveway, parking lot, utility line or other structure, or any parts thereof, unless the contractor or subcontractor therefore has procured and paid for the license required by this article.**

Sec. 14- Evidence of workers' compensation coverage required.

No license required under the provisions of this article for a contractor shall be issued to any person until such person produces a copy of a certificate of insurance for workers' compensation coverage or an affidavit, the form of which is pursuant under RSMo 287.061, signed by the applicant attesting that the contractor is exempt. It shall not be the duty of the city clerk to investigate any certificate of insurance or affidavit filed pursuant to this section.

Sec. 14- Responsible party.

If any person currently or formerly involved in the management of the business operations or has held the position as an active officer, director or registered agent involved in the daily operations of the business, whether it be a sole proprietorship, partnership or corporation, and the business owes any city obligation incurred during the time when the person either participated in or managed its daily affairs, then no license shall be issued to that person until the delinquent obligation is paid.

Sec. 14- Notice of violation and revocation.

- (a) **Notice of violation.** The city clerk is hereby authorized and empowered to revoke any current license issued if the licensee fails to pay or has 1) any tax of any kind outstanding due to the State of Missouri or 2) any obligation due to the city. No revocation shall become effective until the city clerk has notified the licensee, or any person that is in charge of any definite place of business maintained by the licensee in the city, in writing by certified mail of the grounds for revocation of the license and has provided the licensee up to twenty-one (21) days from time of date of mailing to correct the cause(s) for revocation. If the cause(s) has not been corrected within that time period, then the license shall be revoked and subject to actions as provided for in this article.
- (b) **Outstanding State of Missouri taxes.** A statement of no tax due issued by the Missouri Department of Revenue will be required prior to issuance or continuance of a license. The effective date on the statement of no tax due shall be dated no more than ninety (90) days prior to its submission to the city clerk for license reissuance.
- (c) **Disconnection from water or sewer system.** The service address of any business that is operating without a license in violation of this section and which is directly connected to the city water and/or sewer utility system, shall be disconnected from the city water and/or sewer utilities if such violation is not corrected within twenty- one (21) days after mailing of notice of violation.
- (d) A revocation, once effective, shall place the licensee in such position as if a license had never been obtained.
- (e) Revocation of a license will subject the licensee to concurrent revocation of any current liquor license(s) for that business.

Sec. 14- Enforcement and penalties for nonrenewal of license and continuing business, etc.

- (a) **Delay in payment.** All license fees as provided for in this article for renewals shall be deemed delinquent if not paid by March 1 of the license year.
- (b) **Renewal delinquency.** If any person shall continue the business after the expiration of a license previously issued, without obtaining a new license, such person shall be subject to a twenty dollar (\$20) penalty if a delinquent license is not renewed and issued prior to March 1. The penalty shall be assessed and paid along with the renewal license fee.
- (c) **Failure to renew by April 1.** If a license is not renewed and issued prior to April 1, such person shall be guilty of an ordinance violation and, unless otherwise specifically provided by law, shall on conviction thereof be fined an amount not exceeding five hundred dollars (\$500.00) for each separate offense. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- (d) **Disconnection from water or sewer system.** The service address of any business that is operating without a license in violation of this section and which is directly connected to the city water and/or sewer utility system, shall be disconnected from the city water and/or sewer utilities if such violation is not corrected by April 1.

ARTICLE VI. PAWNBROKERS AND SECONDHAND DEALERS

Sec. 14-166. Definitions.

Secondhand dealer. Any person holding a ~~business~~ license who regularly deals in the purchase of tangible personal property which is not new, or purchased when new from any other than a regular dealer.

ARTICLE VII. - ITINERANT VENDORS

Sec. 14-190. Gross ~~receipts fee sales tax~~.

- (a) All itinerant vendors shall pay fifty cents (\$0.50) per thousand dollars (\$1,000.00) on all gross ~~receipts sales~~ exceeding thirty thousand dollars (\$30,000.00) per annum.
- (b) The gross ~~receipts fee sales tax~~ provided for herein shall be due and payable upon the expiration of the itinerant vendor's license under which such sales are made. Each itinerant vendor shall submit a report to the city clerk on forms provided by the city of their gross ~~receipts sales~~, and which such report shall be due no later than three (3) days after the expiration of such license. A penalty charge of one and one-half (1½) percent per month shall be assessed as a penalty for delinquent payment of gross ~~receipts fee sales tax~~.
- (c) All gross ~~receipts fees sales taxes~~ paid under the provisions of this article shall be deposited into the city's general fund.

Sec. 14-191. Bond required.

- (a) All itinerant vendors shall be required to deposit with the city clerk a surety bond in the sum of one thousand dollars (\$1,000.00), executed by a surety company authorized to transact business in this state, together with a current power of attorney for the agent executing such bond.
- (b) Such bond shall be conditioned upon the faithful compliance with the provisions of this article and other ordinances of the city, and the payment of gross ~~receipts fees sales taxes~~.

ARTICLE X. - ADULT ENTERTAINMENT BUSINESSES

Sec. 14-256. Definitions.

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

Sec. 14-258. License, classification and fees.

- (a) The license year for all fees required under this ~~article chapter~~ shall be from March 1 through February 28/29 of the following year. The application for a license shall be accompanied by payment in full of the fee stated in this ~~article section~~ by certified or cashier's check, or money order; and no application shall be considered complete until such fee is paid.
- (b) All licenses shall be issued for a specific location and shall be nontransferable.

- (c) Refundable license fee (see section 14-3135 of this Code.)
- (d) Gross **receipts fee sales tax** (see subsection 14-54(c)20 of this Code.)
- ~~(e) County merchant license (see subsection 14-29(e) of this Code.)~~
- (f)(e) The classification of licenses and fees for each shall be as follows:
 - (1) Adult entertainment ~~business~~ license fee is ten dollars (\$10.00) per year.

Sec. 14-259. License limited to one identifiable type of adult use.

All adult entertainment ~~business~~ licenses shall be issued only for the one (1) adult entertainment business use listed on the application. Any change in the type of adult use shall invalidate the adult entertainment ~~business~~ license. More than one (1) adult entertainment business use shall not be allowed at a single location.

Sec. 14-260. License application.

(a) *Adult entertainment ~~business~~ license.* All persons desiring to secure a license to operate an adult entertainment business under the provisions of this **article chapter** shall make a notarized application with the city ~~business license~~ clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the city ~~business license~~ clerk and shall require the following information:

- (1) The name, resident's address, home telephone number, occupation, date and place of birth and Social Security number of the applicant.
- (2) The name of the adult entertainment business, a description of the type of business to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.
- (3) The names, resident's addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own ten (10) percent or greater interest in the corporation.
- (4) If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State is required.
- (5) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this **article chapter** regulating adult entertainment businesses.
- (6) An application for an adult entertainment ~~business~~ license may be denied if the applicant fails to supply all the information requested on the application or if the applicant gives materially false, fraudulent or untruthful information on the application.

(b) *Manager or owner license requirements.* All persons desiring to secure a license under the provisions of this **article chapter** to be a manager or owner shall make a notarized application with the city ~~business license~~ clerk. All applications shall be submitted in the name of the person proposing to be a manager or owner. All applications shall be submitted on a form supplied by the city ~~business license~~ clerk and shall require the following information:

- (1) The applicant's name, home address, home telephone number, date and place of birth, and Social Security number.

- (2) Documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - a. A valid motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth;
 - b. A state-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official and valid passport issued by the United States of America;
 - d. An immigration card issued by the United States of America;
 - e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the city ~~business license~~ clerk; or
 - f. Any other form of identification deemed reliable by the city ~~business license~~ clerk.
 - (3) Upon receipt of an application in proper form, receipt of the appropriate fee and appropriate proof of age as required by subsection (2) above, the city ~~business license~~ clerk shall issue to the applicant, the manager or owner of the adult entertainment ~~business license~~ as applied for.
- (c) An application for an adult entertainment ~~business license~~ may be denied if one (1) or more of the following conditions exist:
- (1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment ~~business license~~ for any of the reasons set forth in this Code;
 - (2) The applicant failed to provide all the information required on the application;
 - (3) The applicant gave false, fraudulent, or untruthful information on the application;
 - (4) The applicant is a convicted felon, or convicted of a felony and/or sex offense. (See definition sex offender.)
- (d) *Facilities necessary.*
- (1) No adult entertainment ~~business license~~ to conduct a bath house or body painting studio shall be issued unless an inspection by the city inspection department, or his/her authorized representative, reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:
 - a. The walls shall be cleaned and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
 - b. Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet-per male/female gender shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the male/female

gender accommodated therein. The premises of all adult businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

- c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The city inspection department, or his/her representative, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the city ~~business-license~~ clerk provided however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

- (2) All adult entertainment businesses must comply with requirements and meet the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.

- (e) *Application processing.* Upon receipt of a complete application for an adult entertainment ~~business~~ license, the city ~~business-license~~ clerk shall immediately transmit one (1) copy of the application to the chief of police for investigation of the application. In addition, the city ~~business-license~~ clerk shall transmit a copy of the application to the code administrator.

It shall be the duty of the chief of police or his/her designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The chief of police shall report the results of the investigation to the city ~~business license~~ clerk not later than ten (10) working days from the date the application is received by the city ~~business-license~~ clerk.

It shall be the duty of the codes administrator to determine whether the building and/or premises where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city. The codes administrator shall report the results of the investigation to the city ~~business-license~~ clerk not later than ten (10) working days from the date the application is received by the city ~~business license~~ clerk.

Upon receipt of the reports from the chief of police and code administrator, the city ~~business-license~~ clerk shall submit the application and reports to the city manager for consideration, provided the license application for an adult entertainment ~~business~~ license shall be approved or disapproved within twenty (20) days from the date of filing of the completed application with the city ~~clerk finance department~~.

- (f) *Signs required.* All adult entertainment businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least one-half ($\frac{1}{2}$) inch high, and lowercase letters at least one-fourth ($\frac{1}{4}$) inch high, which shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS
REGULATED AND LICENSED
BY THE CITY OF KIRKSVILLE

ENTERTAINERS ARE:

Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.

Not permitted to be nude, unclothed, or appear in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.

Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

While such entertainer is on the stage, or platform a payment or gratuity may be placed into a box affixed no less than ten (10) feet from the stage or platform.

CUSTOMERS OR PATRONS ARE:

Required to be at least eighteen (18) years of age.

Not permitted to be closer than ten (10) feet from the stage at any time.

Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

- (g) *Lighting required.* The interior premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

The exterior premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one (1) footcandle in all parking areas and on the general grounds of the premises as measured at the ground level, and there shall be illumination to the equivalent of not less than five (5) footcandles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

- (h) *Closed booths or rooms prohibited.* The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of the premises and of any booths, cubicles, rooms or stalls are visible from a common area of the business. The use of video cameras to meet this requirement is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. The manager shall be required to position himself/herself so as to be able to view the entire interior portion of the premises while on duty.

Only one (1) person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways, there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle, room or stall.

Sec. 14-261. Examination of application, issuance of license, disapproval.

- (a) If the application for an adult entertainment ~~business~~ license is in proper form and accompanied by the appropriate license fee, the city manager shall examine the application, and after such examination, the city manager shall, if the applicant is qualified, approve a license as provided for by law.
- (b) The record of the city manager shall show the action taken on the application, and if the license is granted, the city manager shall direct the city ~~business license~~ clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the license period for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed.
- (c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. An applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

Sec. 14-263. Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment businesses, their employees and all managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business, whether licensed or not:

- (1) *Stage or platform.* The conduct of adult entertainment shall be confined to a stage or platform, which stage or platform shall be elevated at least two (2) feet above the elevation of the main floor of the structure and any person providing adult entertainment shall maintain a distance of not less than ten (10) feet from all patrons of the establishment; further, no patron shall be permitted to approach to a distance less than ten (10) feet from the stage upon which the adult entertainment is being presented.
- (2) *Age restriction.* Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult entertainment business.
- (3) *Exterior observation and display.* No adult entertainment business will be conducted in any manner that permits the observation or display of performers, servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, DVDs, or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any

- exterior sources including, but not limited to, by display, decoration, sign, show window or their opening.
- (4) *Nudity prohibited.* No person in an adult entertainment business, other than a patron in a licensed bath house, shall appear nude, unclothed, or in any fashion that exposes to view any "specified anatomical areas."
- (5) *Certain acts prohibited.*
- a. No manager, employee, server, entertainer or patron shall perform any "specified sexual activities" as defined herein, wear or use any device or covering exposed to view which simulates any "specified anatomical areas," use artificial devices or inanimate objects to perform or depict any of the "specified sexual activities" as defined herein, or participate in any act of prostitution.
 - b. No manager, employee, server, entertainer or patron of an adult entertainment business shall knowingly or repeatedly touch, fondle or caress any "specified anatomical area" of another person, or knowingly permit another person to touch, fondle or caress any "specified anatomical area" of such manager, employee, server, entertainer or patron, whether such "specified anatomical areas" are clothed, unclothed, covered or exposed.
 - c. No manager, employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any "specified anatomical area."
 - d. No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this ~~article~~ ~~chapter~~, and no entertainer shall receive any payment or gratuity from any customer for any adult entertainment, except a performer or patron may place such payment or gratuity into a box affixed no less than ten (10) feet from the stage or platform.
 - e. No owner, operator, manager or other person in charge of the adult entertainment business premises shall:
 1. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises, (unless otherwise permitted pursuant to Chapter 4, Alcoholic Beverages, of the City Code).
 2. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises.
 3. Knowingly allow or permit any person under the age of eighteen (18) years of age to be in or upon the premises.
 4. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises.
 5. Knowingly allow or permit a violation of this ~~article~~ ~~chapter~~ or any other city ordinance provision or state law.
- (6) *Hours of operation.* No adult entertainment business may be open or in use between the hours of 1:30 a.m., and 6:00 a.m. on weekdays and Saturdays, and between the hours of 1:30 a.m. on Sunday and 6:00 a.m. on Monday.

Sec. 14-264. License; posting or display.

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

Sec. 14-267. Renewal.

- (a) A license may be renewed by making application to the city ~~business license~~ clerk on application forms provided for that purpose. Licenses shall expire on February 28/29 of each calendar year, and renewal applications for such licenses shall be submitted prior to February 1 to ensure processing by March 1.
- (b) Upon timely application and review as provided for a new license, a license issued under the provisions of this **article chapter** shall be renewed by issuance of a new license in the manner provided in this **article chapter**.
- (c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected, and a new application shall be required.

SECTION TWO: This ordinance shall be in full force and in effect as of date of signing.

SECTION THREE: The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Kirksville, Missouri, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

BILL NO. 2011-7

ORDINANCE NO. 11951

AN ORDINANCE PROVIDING FOR THE REPEAL OF SECTIONS 14-293 AND 14-294, AND THE DELETION OF WORDING FROM SECTION 14-295, OF ARTICLE XI – GEOGRAPHIC INFORMATION SYSTEM (GIS) OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE, MISSOURI, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

WHEREAS, the GIS Coordinator resigned in 2010, and there are no plans to fill this position which has been eliminated.

BE IT ORDAINED, by the City Council of the City of Kirksville, Missouri, as follows:

Section 1. That Sections 14-293 and 14-294 of Article XI – Geographic Information System (GIS) of the Code of Ordinances, City of Kirksville, Missouri, is hereby repealed and declared null and void and of no effect.

Section 2. That the following wording be deleted from Section 14-295 – Data License Agreement:

... This Agreement is made and entered into this _____ day of _____, 20____, by and between the City of Kirksville, Missouri (“City”), ~~through its GIS Coordinator,~~ and

Last Paragraph:

... This Agreement is made as of the date first above written by:

_____ [Name of Party Receiving Information] _____

Title

Company or Entity

CITY OF KIRKSVILLE, MISSOURI

GIS Coordinator

Date

APPROVED:

Kirksville City Manager

Date

Section 3. This Ordinance shall be in full force and effect from and after its passage.

Councilmember Chrisman moved to approve Bill No. 2011-3, 2011-4, 2011-5, 2011-6 and 2011-7 on second reading; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Adjournment

There being no further business to come before the Council, Councilmember Chrisman moved to adjourn; seconded by Councilmember Fajkus. The motion carried by the following vote: Mayor Kuhns – aye; Councilmembers: Chrisman – aye; Detweiler – aye; Fajkus – aye; Rowe – aye. 5 Ayes; 0 Nays.

Mayor Kuhns declared the meeting adjourned at 6:58 p.m.

Vickie Brumbaugh, CMC, MRCC
City Clerk