

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager ^{MEM}
SESSION DATE: November 15, 2010
TIME: 4:30 pm
PLACE: Second Floor Conference Room

We will meet in the second floor conference room of City Hall starting at 4:30 pm, followed by the City Council Meeting at 6:00 pm.

AGENDA:

- BUSINESS LICENSE REVIEW
- BOARD AND COMMISSION REPORTS
- REVIEW NEWSLETTER

BUSINESS LICENSE REVIEW

The City of Kirksville requires certain businesses to obtain a business license every year. The process begins with a notification sent out to all known businesses at the end of the calendar year to remind them of the renewal process. Business licenses are due for renewal by March 1 of each year.

Typically, during the renewal process, when a business does not renew its license it is because the business has closed, or that the license was obtained by an out of town contractor who obtained the license for a construction project for the previous year.

There are always a few that we have to continue to contact to get their information in to the City. The renewal process became more complicated for some businesses, as a result of a new Missouri law. Beginning January 1, 2009, cities and counties were required to obtain from each business that makes retail sales a “no tax due” statement. This statement would be obtained from the Missouri Department of Revenue, provided the applicant was current on their sales and withholding taxes. The license renewal process in 2009 was the first time that in many years that we had to pursue action beyond the normal notification process.

So in 2010, we began the process and as a result, we had a list of businesses that were not able to renew due to the State’s required “no tax due” statement. The City provided several notifications, made direct contact with and met face to face with several businesses. The majority of the businesses on the list that did not renew were ones that had chose to close their business, or closed their doors until they could resolve operating issues.

One business has chosen to stay in operation and is doing so without a license. The City has filed through the courts the necessary charges, the owner of the business pled not guilty, hired an attorney and the matter is set for court in early December. In the meantime, it became obvious that there is more that the City could consider obtaining compliance with local business.

Finance Director Laura Guy has conducted research looking at what other communities have in place that provides fewer leniencies and more authority to the City to obtain compliance. Included with this cover memorandum is a report from Laura Guy that outlines a number of potential changes that could be considered by the City. Some of the items take the business license process into other areas of the City, such as utility service and property maintenance.

City staff has been hesitant to push businesses too far, but we have to obtain compliance. It is not fair to the City, citizens and law abiding business owners.

In addition to this report, the City Council should be reminded that there are other issues that will need to be addressed in the future regarding the operation of businesses.

Businesses extending their operations beyond what they are licensed for at that location. There is a local barber who for the past few days has been selling crocheted blankets in front of the business, or businesses allowing other operations to operate without requiring a business license. An example of this later issue was when Sweet Expressions thought it was ok to allow someone to set up and sell barbeque in front of their store without having a license.

There is also the issue of the many roadside stands that have sprung up, the gentleman who sells apples and pecans in front of Tractor Supply, the ladies who sell mums in front of Salvation Army. Our position has been that so long as the vendor produces the item or is selling it for a local producer, they are exempt for the licensing requirement but they are still required to charge sales tax and remit this to the state. We do not do anything regarding these stands. The concern is whether or not these stands met the intent of the ordinance.

The Council has spent some time discussing the farmer's market ordinance. There needs to be follow up by the Kiwanis. Concerns have been expressed by local vendors that the Farmer's Market is still allowing vendors who do not produce the items locally to sell.

Recommended Action: We encourage the City Council to discuss the issues that have been outlined and determine whether or not the proposed changes are worth pursuing.

BOARD AND COMMISSION REPORTS

Each member of the City Council serves as a representative of the City on various boards and commissions. Some of these boards and commission do not or have not met.

Since the City Council is being represented by individual members of the Council and City staff, it would be good to determine a way to share information and develop an approach that will keep all members informed and give the Council representative the direction needed to represent the City Council when decisions are expected.

We will take time on Monday to hear from each member of the City Council on the various boards and commissions that they serve. Those boards and commissions, who have not met are denoted. The Council should discuss whether or not there is a purpose for these.

Mayor Kuhns

KDIC

LPRC

Telecommunications (has not met)

Mayor Pro Tem Detweiler

ATC

KREDI

Highway 63 Transportation Corporation

Council Member Chrisman

P&Z

LMC

Council Member Fajkus

KHPC

TIF

Council Member Rowe

Nemo RPC

Nemo Solid Waste Management District

Nemo RC& D

Affordable Housing Board (has not met)

Adair County Extension

Other Committees

Chamber of Commerce Board – city staff

Tourism Board – City Manager / Steve Taylor

Governmental Affairs – City Manager

E911 Joint Services – city staff

Watershed Management – City Manager

Recommended Action: Discuss the work that is being addressed by each committee and seek input from the Council on pending and future issues.

NEWSLETTERS – 11-05-2010 and 11-15-2010

Attachments

Staff Report Business Licenses, Laura Guy

Business License Ordinance

Business License Renewal Form

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Business Licensing

STUDY SESSION MEETING DATE: November 15, 2010

CITY DEPARTMENT: Finance

PREPARED BY: Laura Guy, Finance Director

The City of Kirksville business licensing ordinance was first enacted in 1974 with various revisions having been made since that time. There is currently concern with a business that is still in operation without a license and no resolution available to City staff. The City has not encountered problems in the past with businesses that continue operating without a license after they have been notified of court proceedings. The current ordinance does not address nor resolve the occurrence of this situation. There are no provisions for City staff to either revoke or suspend licenses. The following are the primary issues to be addressed and incorporated in this chapter:

- ✓ ***Additional definition***
- ✓ ***Suspension and revocation***
- ✓ ***Enforcement and penalties for nonrenewal***
- ✓ ***Exemptions***
- ✓ ***Building permits issuance***
- ✓ ***Signage to be removed when business operations cease***
- ✓ ***Outstanding or ongoing property maintenance violations***
- ✓ ***Miscellaneous***

Additional definition

License year. The term that a license is in effect, 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 subsequent last day of February.

Suspension and revocation

(a) *Suspension.* The city clerk is hereby authorized and empowered to suspend any current license issued under the provisions of this section for cause. The suspension shall continue until the earlier of the time the cause is corrected or for a period not to exceed 14 days. No suspension 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 of the grounds for the suspension of the license and has provided the licensee up to 14 days from time of notification to correct the cause. If the cause has not been corrected within that time period, then the license shall be subject to revocation and subject to the actions as provided in this chapter.

(b) *Outstanding taxes.* A license shall be subject to suspension if the business fails to pay or has any tax of any kind outstanding due to the State of Missouri or the City of Kirksville. 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 no more than 90 days prior to its submission to the city clerk for license reissuance.

(c) *Public health and safety.* Any person in the conduct of the business which causes or maintains or assists in the cause or maintenance of a nuisance, whether public or private, and any person who violates any ordinance of the city or laws of the State of Missouri or any activity which is determined to be detrimental to the community which jeopardizes the public health and safety of residents shall constitute a violation of this chapter and shall be deemed as grounds for suspension.

(d) A revocation, once effective, shall place the licensee in such position as if a license had never been obtained.

(e) Any business operating under a revoked license will be subject to the Kirksville Police Department taking the actions necessary to secure the business so that it can no longer operate or remain open for business whenever it shall be shown, or whenever they have knowledge that a licensee is conducting said business or manufacturing in violation of any ordinance of the city.

(f) Revocation of a license will subject the licensee to concurrent revocation of any current liquor license(s) for that business.

Enforcement and penalties for nonrenewal

(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, and any person so delinquent shall be subject to the penalties so provided.

(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 \$20 penalty if a delinquent license is issued between March 1 and March 31. The penalty shall be assessed and paid along with the license fee.

(c) *Failure to renew by April 1.* If the failure to obtain a renewed license is continued past March 31, such person shall be guilty of a misdemeanor 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 committed after March 31. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(d) *Prohibit Operation.* The city may prohibit the further operation of any business that is not currently the holder of a valid license if that business is required by this chapter to

have a license. If the license is not currently valid due to 1) a suspension or revocation under this chapter; 2) a revocation that has occurred pursuant to Section 144.083.3, RSMo.; or 3) due to failure to obtain timely renewal by April 1, the closure of the operation of the business may be implemented by the city immediately and, if so implemented, the Kirksville Police Department shall take the actions necessary to secure the business so that it can no longer operate or remain open for business. This may consist of, but not be limited to, locking or otherwise banning the conduct of any business therein, including the posting of appropriate signs and/or all other necessary acts to prohibit the conduct of business until such business shall have complied with the provisions of this ordinance.

(e) *Disconnection from water or sewer system.* The service address of the business that is operating without a valid license that is in violation of this chapter, and directly or indirectly 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 14 days after delivery of notice of suspension or if due to failure to renew timely, immediately after April 1.

Exemptions

The following excerpt is from the ordinance as to the current exemptions provided from licensing.

Persons exempted from article.

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 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. All attractions, devices, races or exhibitions under direct contract with the Northeast Missouri Fair Association are exempt from the provisions of this chapter.

Consideration of the additional exemption is requested.

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

- (a) The minor person conducting business is currently enrolled in school not above high school and has not yet graduated from high school,
- (b) The business activity is conducted only during spare time from school or during school vacation,
- (c) 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,
- (d) No persons other than such minor and others who are under the age of eighteen (18) years are employed in business for wages, salary, hire or profit,
- (e) All laws, state and local, are complied with in conduct of business activity.

Building permits issuance

(a) Stone, building, cement, sidewalk, and bridge 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 chapter. No license shall be required of any person performing work on their own residence.

(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, parking lot or other structure, or any parts thereof, unless the contractor or subcontractor therefore has procured and paid for the license required by this article.

Signage to be removed when business operations cease

Once a business ceases operations, the person operating the business is responsible for removing all signs advertising such business. Failure to remove a sign within 10 days of cessation of operations will be a violation of this chapter and subject the licensee to a misdemeanor.

A provision will also be included in the chapter pertaining to signs regarding their removal upon cessation of business operations.

Outstanding or ongoing property maintenance violations

Public health and safety. Any person in the conduct of the business which causes or maintains or assists in the cause or maintenance of a nuisance, whether public or private, and any person who violates any ordinance of the city or laws of the State of Missouri or any activity which is determined to be detrimental to the community which jeopardizes the public health and safety of residents shall constitute a violation of this chapter and shall be deemed as grounds to suspend a current license or deny the issuance of a renewal or new license.

Miscellaneous

Evidence of workers' compensation coverage required.

No license required under the provisions of this chapter for a contractor in the construction industry 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. The provisions of this section shall apply to any construction industry employer who erects, demolishes, alters or repairs improvements if such employer has one (1) or more employees. It is further made a violation of this section to

provide fraudulent information. It shall not be the duty of the city clerk to investigate any certificate of insurance or affidavit filed pursuant to this section.

Refund of tax on cessation of business.

No refund shall be made on any license fee or investigation fee imposed under this chapter due to the cessation of the business during any license year.

Responsible party.

If any person is currently or formerly was associated with either any active or inactive closely held business enterprise (whether or not as a sole proprietor, partner, or as an officer, director, or agent of a for profit or not-for-profit corporation), and, the business enterprise owes any city obligation incurred presently or during the time when the person either participated in or managed its daily affairs, then no license or permit shall be issued to that person until the business enterprise's delinquent obligation is first paid by that person.

Penalty for beginning business, etc., without license.

If any person shall commence a business without a license required by this chapter, the person shall be guilty of a misdemeanor and unless otherwise specifically provided by law, shall on conviction thereof be subject to the violations as proscribed in this chapter. Water and/or sewer disconnection will occur immediately if a license is not issued within 14 days of written notification.

Sec. 14-16. - Definitions.

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

Agency. Any group of persons formed together to offer any product, item, service, ware or other commodity to the general public for payment thereof.

Agent. Any individual or person who, as representative of another, offers any item, product, service, ware or other commodity to the general public for payment thereof.

Business. All kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profits or benefits, either directly or indirectly, on any premises in this city or anywhere else within its jurisdiction, as permitted by the Revised Statutes of Missouri and as provided for by this Code and other ordinances of the city.

City clerk, city collector, city license inspector or license inspector. The clerk of the city or his designated deputies.

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

Deceptive practices. The misleading of others through intentional false statements or fraudulent actions.

Insignia. Any tag, plate, badge, emblem, sticker, card or any other kind of device which may be required for any use in connection with any license.

Jobber. Any person who solicits any item, product, service, ware or commodity from the manufacturer and offers the same for resale to others who will sell such item, etc., to the general public.

Legal entity. A separate and distinct business, having a different legal name from any other.

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.

Manufacturer. Every person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining, or by the combination of different materials. (Per RSMo. § 150)

Merchant. Every person, corporation, copartnership or association of persons, who shall deal in the selling of goods, wares and merchandise at any store, stand or place occupied for that purpose. Also, every person, corporation, copartnership or association of persons doing business in the State of Missouri who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sales of goods, wares and merchandise to any person, corporation, copartnership or association of persons, shall be deemed to be a merchant whether said sales be accommodation sales, whether they be made from a stock of goods on hand or by ordering goods from another source, or whether the subject of said sales by similar or different types of goods than the type, if any, regularly manufactured, processed or sold by said seller. (Per RSMo. § 150)

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.

Nonresident. Business located outside the city limits and outside a one (1) mile radius from the city limits.

Peddler and hawker. Any person who has no established place of business, nor any specific line of sales items, but moves from place to place within the city, along the streets therein, offering wares for sale.

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

Premises. All lands, structures, places and, also, equipment and appurtenances connected or used therewith in any business all in one (1) location not divided by other real property of another or streets and, also, any personal property which is either affixed to or is otherwise used in connection with any other business conducted on such premises.

Profession. Any type of service offered to the general public by any person for payment thereof.

Retail. Any person who offers or sells any item, product, service, ware or commodity to the general public and user.

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)

Salesman. Any person who offers any type of item, product, service, ware or other commodity offered for sale to the general public for payment thereof.

Wholesaler. Any person who offers or sells any item, product, service, ware or other commodity to another who is in the business or offering the same for resale only and not for personal use.

All other items, phrases, words and their derivations used in this article shall be interpreted by the definition given the same by the latest version of the universally-recognized Webster Dictionary.

The term "his" and related derivatives as used throughout this chapter is intended to be interpreted as a nongender usage.

(Code 1974, § 12-11; Ord. No. 10379, § 1, 9-28-79; Ord. No. 11497, § 1, 5-7-2001; Ord. No. 11788, 2-28-2007)

Cross reference— Definitions and rules of construction generally, § 1-2.

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.

(Code 1974, § 12-12; Ord. No. 10753, § 1, 1-19-87)

Sec. 14-18. - 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.

(Code 1974, § 12-13)

Sec. 14-19. - 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 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 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.

(Code 1974, § 12-14; Ord. No. 11497, § 2, 5-7-2001)

Sec. 14-20. - 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. All persons designated as deputies shall be authorized herein to inspect persons, licensees and businesses. 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 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.

(Code 1974, § 12-15)

Sec. 14-21. - Conduct of business without license.

Any person required by this 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.

(Code 1974, § 12-16; Ord. No. 10377, § 2, 9-28-79)

Sec. 14-22. - Payment of gross sales tax prerequisite to renewal.

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.

(Code 1974, § 12-17; Ord. No. 11497, § 3, 5-7-2001)

Sec. 14-23. - 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.

(Code 1974, § 12-19)

Sec. 14-24. - 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.

(Code 1974, § 12-20)

Sec. 14-25. - 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 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.

(Code 1974, § 12-21; Ord. No. 11497, § 4, 5-7-2001)

Sec. 14-26. - 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 tax on gross sales from such a concession stand, lunch counter and any other similar business 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.

(Code 1974, § 12-22)

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.

(Code 1974, § 12-23)

Sec. 14-28. - 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.

(Code 1974, § 12-24; Ord. No. 11497, § 5, 5-7-2001; Ord. No. 11788, 2-28-2007)

Sec. 14-29. - 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 14-28 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 state.
- (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 chapter shall be renewed upon the payment of the prescribed annual fee. 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).
 - (2) That no renewal application will be considered or license issued thereon unless all outstanding gross sales tax due has been paid.
 - (3) 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.
- (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.

(Code 1974, § 12-25; Ord. No. 11497, § 6, 5-7-2001; Ord. No. 11788, 2-28-2007)

Sec. 14-30. - 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, the city clerk or his deputies shall determine to be necessary.

(Code 1974, § 12-26)

Sec. 14-31. - 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.

(Code 1974, § 12-27)

Sec. 14-32. - 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 14-19.
 - (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; noncompliance with city fire code at licensed premises may subject the licensee to possible revocation of the applicable business license.
- (b) *Display of license and card.* 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) 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 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 license fee 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.

(Code 1974, § 12-28; Ord. No. 11497, § 7, 5-7-2001; Ord. No. 11788, 2-28-2007)

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.

(Code 1974, § 12-29; Ord. No. 11497, § 8, 5-7-2001)

Sec. 14-34. - Persons exempted from article.

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 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. All attractions, devices, races or exhibitions under direct contract with the Northeast Missouri Fair Association are exempt from the provisions of this chapter.

(Code 1974, § 12-30; Ord. No. 11497, § 9, 5-7-2001)

Sec. 14-35. - 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.

(Code 1974, § 12-30.1)

Secs. 14-36—14-50. - Reserved.

Sec. 14-51. - Payment, duration; multiple businesses, premises.

- (a) Every person engaged in any of the businesses, occupations, professions or services described in this division shall pay the license fees set forth in this 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, may purchase both wholesale and retail merchant licenses and compute the tax from their gross wholesale and gross retail 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 sales from all such retail transactions for computing the tax thereon.
- (d) Where an additional retail license is required for a merchant to operate his business on one (1) or more separate premises, such person may combine all his gross sales from all such retail transactions from all premises for computing the tax thereon.

(Code 1974, § 12-31; Ord. No. 10379, § 3, 9-28-79)

Sec. 14-52. - 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 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 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.

(Code 1974, § 12-32; Ord. No. 11497, § 10, 5-7-2001)

Sec. 14-53. - Fee based on gross sales generally.

- (a) Unless otherwise provided, every person engaged in a business for which gross sales shall be assessed, shall pay fifty cents (\$0.50) per one thousand dollars (\$1,000.00) on gross 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 sales tax.
- (b) All persons engaging in a business for which gross sales tax shall be assessed, shall submit quarterly reports to the city clerk on forms provided by the city of their gross sales for each period.
- (c) The quarterly reports are due not later than April 30, July 30, October 30 and January 30 of each year.

(Code 1974, § 12-33; Ord. No. 10379, § 4, 9-28-79; Ord. No. 10401, § 2, 2-5-80; Ord. No. 10779, § 1, 6-18-87)

Sec. 14-54. - Residents—Gross 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.
- (c) Gross sales tax shall be imposed upon all businesses located within the city engaged in the business of selling tangible personal property or rendering taxable service at retail or wholesale as set out in section 14-53.
- (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

(Code 1974, § 12-35; Ord. No. 10379, § 9, 9-28-79; Ord. No. 10753, § 3, 1-19-87; Ord. No. 11497, § 11, 5-7-2001)

Sec. 14-55. - Same—Performance bond required, not gross 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 investigative fee and if applicable deposit the required 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.
- (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 with the city, but shall not be required to pay a tax on their gross sales as set out in section 14-53.
Plumbers, whether a member of plumbing firm or not \$25.00

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

(Code 1974, § 12-36; Ord. No. 10379, § 8, 9-28-79; Ord. No. 10511, § 1, 3-2-82; Ord. No. 10753, § 4, 1-19-87)

Sec. 14-56. - Same—Neither performance bond nor gross 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 investigative fee, if applicable, and deposit the required 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.
- (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 tax on their gross 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

(Code 1974, § 12-37; Ord. No. 10379, § 9, 9-28-79; Ord. No. 10511, § 2, 3-2-82; Ord. No. 10753, § 5, 1-19-87; Ord. No. 11497, § 12, 5-7-2001)

Sec. 14-57. - Daily fees for special events.

- (a) It shall be unlawful for any person, firm or corporation to conduct the special events listed herein without first obtaining a permit from the city 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 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:

Days	Fee
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 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 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.

(Code 1974, § 12-40; Ord. No. 11189, § 1, 6-5-95)

Secs. 14-58—14-75. - Reserved.

