

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager
SESSION DATE: July 1, 2013
TIME: 4:30 p.m.
PLACE: Second Floor Conference Room of City Hall

AGENDA:

- **PSEUDOEPHEDRINE RESTRICTIONS**
- **PACE PROGRAM**
- **HUMAN RIGHTS COMMISSION ORDINANCE REVIEW**
- **REVIEW NEWSLETTER – June 28, 2013**
- **REVIEW COUNCIL AGENDA**

PSEUDOEPHEDRINE RESTRICTIONS

Sheriff Hardwick expressed a desire to pursue additional restrictions within the city limits of Kirksville on the sale of products containing pseudoephedrine. Sheriff Hardwick had met individually with each member of the City Council outlining his interests and desire to seek additional restrictions on the purchase of this product.

Pseudoephedrine is a plant based drug used as a nasal decongestant. Pseudoephedrine is also extracted and used in the production of the illegal drug methamphetamine.

Information on this drug and proposed legislation has been included in previous Newsletters.

Sheriff Hardwick and Chief of Police Jim Hughes will be in attendance on Monday to visit with the City Council about the proposed restrictions and also about some of the issues they are facing in the field as they continue to deal with law enforcement issues resulting from the sale and use of methamphetamines.

PACE PROGRAM

The PACE Program came about in Missouri in 2010 after the state legislators passed HB 1692. After its adoption Missouri became the 21st state to approve this program. PACE stands for Property Assessment Clean Energy. It is a financing program that allows the use of loans obtained for energy efficiencies to be repaid through property tax assessment. PACE is unique in two ways. One, it eliminates most or all of the up-front costs that sometimes hamper energy efficient projects. And two, it ties the loan to the property, not the individual.

The PACE program is being viewed as an economic development tool. Assistant City Manager Melanie Smith will provide a summary report for the Council. Because of the

nature of the program and its limited risk, it has also been placed on the City Council agenda for Council consideration.

Additional information on the PACE program is included in this packet.

HUMAN RIGHTS COMMISSION ORDINANCE REVIEW

Included with this Newsletter is a revised Human Rights Ordinance that shows the changes made to the proposed ordinance. Many of the changes reflect the concerns of staff time available to implement outreach and education.

The effective date is another key issue that the Council needs to consider. Passing the ordinance on Monday evening without an actual Commission in place would be a mistake. The proposed effective date of this ordinance is August 12. This would give the City Council and City staff time to identify potential Commission members and have two more City Council meetings for those appointments, allowing time to schedule the Commission's first meeting for potentially August 12.

Two other changes in the proposed ordinance would have the Commission meet monthly initially and then allow them to move to quarterly meetings. That way if there were no business of the Commission they would not have to meet monthly. The second change that was made was a reference to the City Manager giving office space and the assignment of clerical support for use by the Commission. We have no designated office space for any of our boards/commissions. The language was changed to eliminate the reference to office space and the clerical support will be allocated to support the activities of the Commission.

NEWSLETTER REVIEW – June 28, 2013

REVIEW COUNCIL AGENDA

Attachments

- Staff Report from Chief Hughes
- Map of US and Methamphetamine Labs
- US Drug Enforcement Administration Drug Fact Sheet
- Staff Report from Assistant City Manager Smith

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Proposed additions to Municipal Ordinance pertaining to pseudoephedrine, synthetic cannabinoids and bath salts.

STUDY SESSION MEETING DATE: July 1, 2013

CITY DEPARTMENT: Police

PREPARED BY: Chief Hughes

Proposed additions to Municipal Ordinance pertaining to pseudoephedrine, synthetic cannabinoids, and bath salts – In a previous newsletter Council members were informed of an interest on the part of the Police Chief and Adair County Sheriff to discuss additions to Municipal Ordinance that would address the purchase of medications containing pseudoephedrine (the main ingredient to methamphetamine) and the sale/possession of two types of designer drugs known generically as synthetic cannabinoids (which has nothing to do with marijuana) and bath salts (which has nothing to do with true bath products). At that time Council members requested additional information; which was supplied in a later newsletter. Copies of both of these newsletter entries are attached.

At this point the Police Chief and Sheriff would like to formally discuss the purpose of such ordinance changes and gauge the interest of Council Members in submitting formal language, in the near future, to so amend the Municipal Code.

ATTACHMENTS

From May 17, 2013

PSEUDOEPHEDRINE

Some members of Council have received information from Sheriff Hardwick requesting that the City further restrict the purchase of over-the-counter medicine containing pseudoephedrine (the main ingredient in the manufacturing of methamphetamine). A number of other cities in Missouri have done something similar. As most of you know Missouri is the number one meth state in the Country, and has been so for many years. Through May 1st of this year the Police Department has been involved in 12 separate meth labs in the City. Although a community initiative a few years back was successful in reducing meth use in the area, problems are once again on the rise. The State currently requires anyone who purchases pseudoephedrine produce identification and be limited on the amount that can be purchased. Local law enforcement does access these "pill logs" and uses them in meth investigations/prosecutions. In 2012 there were at least 16,932 boxes of these products sold in Kirksville (from six retailers). The current law resulted in 889 attempts to purchase being blocked. A significant percentage of those actually making such purchases are known to law enforcement (which does not necessarily mean that they are making meth). At its most basic; Sheriff Hardwick's proposal is that the City passes a municipal ordinance that requires any pseudoephedrine purchase be a result of a prescription from a qualified medical professional. The biggest community advantage from this program would be the reduction in purchases of this critical ingredient in meth (and all of the associated negative fallout from this problem). The biggest disadvantage would be requiring people (many of whom are not making meth) to interact with a physician and obtain a prescription to obtain this over-the-counter medication. This will likely add some additional costs and create access issues (especially in the evenings, weekends and holidays). Somewhat related is a Police Department interest in restricting the possession and use of synthetic cannabinoids (known generically as K2 and Spice) and bath salts (which have nothing to do with true bath salts). This has nothing to do with marijuana. Both of these products are manufactured in the laboratory. Both are being advertised for sale for non drug purposes, but, based on a number of other indicators

are clearly sold for drug usage. A little research on the internet will produce a lot of fairly scary information. The problem with the current limited State and Federal laws, since these are designer type drugs manufactured in the lab, is as soon as someone makes a certain substance illegal someone else will change a molecule and produce a very closely related substance whose formulation is not among banned substances.

Both of these man-made chemicals are linked with potentially severe physical and psychological responses that are causing significant problems for law enforcement and the medical community. A municipal ordinance could be crafted that may be more flexible than those that currently exist at the State and Federal level. As a municipal ordinance, a local law could more easily be updated as new variants are produced. As opposed to pseudoephedrine, there is no recognized legitimate human use for these designer products. How would Council like to proceed?

From June 14, 2013

PSEUDOEPHEDRINE RESPONSE

The City Council was asked to consider restricting access to products that contain pseudoephedrine. There were a few initial questions that the Council had regarding the request and the product. Chief Hughes has provided the following responses to those questions.

What do the Pharmacist/Physicians think of this regulation?

Pharmacist A - Mixed feelings. Personally would like to see this ordinance or something like it. Believes that 10% or less of such current purchases are legitimate. However, they are a business and unsure on corporate response.

Pharmacist B - Somewhat mixed feelings. Understands both sides. Believes what we currently have in place (state laws) is enough. If a prescription, it will add about \$2 to each purchase (labeling, pharmacist time, etc.). Overall would make a \$5 purchase into a \$70 purchase (including doctor visit/charges).

Physicians A (a physicians group) - They support the idea. They believe that the "potential benefits far outweigh the excess burden..." They also believe that there are enough other products to treat allergy conditions that do not involve Sudafed. They believe it would be very rare, if ever, that they would write a prescription (because of alternatives). They did have a question as to whether it would cover all vendors in the county.

Physician B - Advised biggest consequence was inconvenience to legitimate user. Most physicians would need to see the patient (office visit) before prescribing. Also believes that there are other medications out there and it would rarely be prescribed.

What other local governments have passed something similar?

See attached.

What products does this include?

In a check of one large local pharmacy it was found that they have more than 30 various pseudoephedrine products and many more products that do not contain any pseudoephedrine. These products are for various remedies such as sinus, congestion, asthma and colds. These product brand names are as follows (there is a generic or store brand for most of these products):

Allegra	Advil Cold and Sinus
Advil Allergy Sinus	Alavert
Allergy Sinus	Zyrtec
Primatene	Sudafed
Zephrex	Aleve Sinus & Headache
Aleve Sinus & Cold	Claritin
Mucinex	

There may be additional products at other stores or that come out from time to time.

LOCATIONS IN MISSOURI WHO PASSED PSEUDOEPHEDRINE

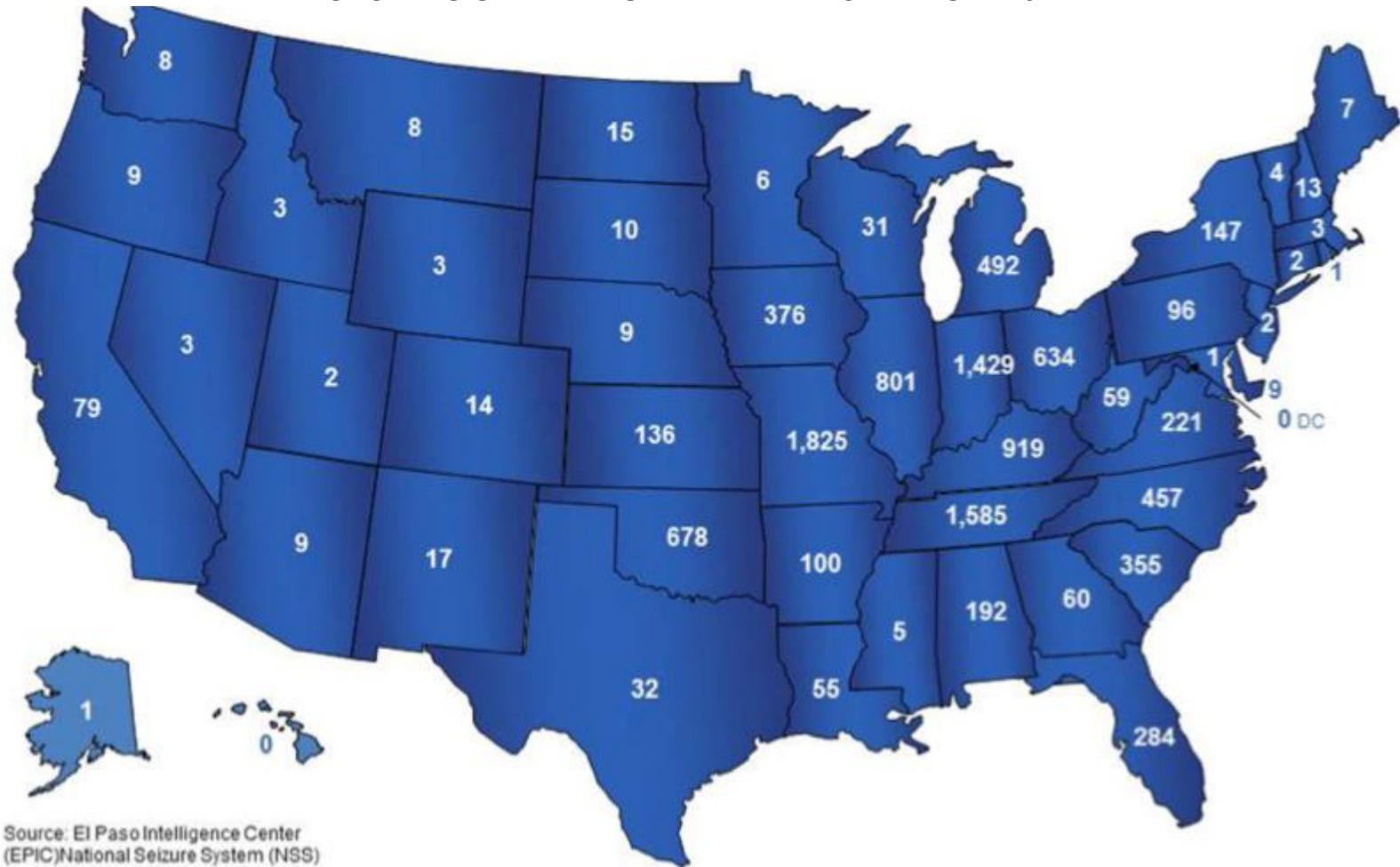
May. 31. 2013 11:50AM Adair Co Sheriff

No. 0742 P. 2

Arnold
Barnhart
Belle
Branson
Butler County
Byrnes Mill
Cabool
Cape Girardeau
Caruthersville
Cedar Hill
Chaffee
Cottleville
Crystal City
Cuba
Dardenne Prairie
De Soto
Desloge
Dexter
Doniphan
Ellisville
Eureka
Farmington
Festus
Foristell
Franklin County
Fredericktown
Gerald
Herculaneum
High Ridge
Hillsboro
Hollister
House Springs
Houston
Jackson
Joplin
Kennett
Lake St. Louis
Licking
Malden
Manchester
McDonald County
Mountain View
New Haven
New Melle
O'Fallon
Owensville
Pacific

Perryville
Piedmont
Pineville
Poplar Bluff
Portageville
Potosi
Ripley County
Scott City
Sikeston
St. Charles City
St. Charles County
St. Clair
St. Peters
Steele
Sullivan
Troy
Un-Incorporated Jefferson County
Union
Washington
Wentzville
West Plains
Wildwood

MAP SHOWING STATE BY STATE METH INCIDENTS IN 2012



Source: El Paso Intelligence Center (EPIC) National Seizure System (NSS)
Query Date January 27, 2013



Drug Fact Sheet

Methamphetamine

Overview

Methamphetamine (meth) is a stimulant. The FDA-approved brand-name medication is Desoxyn®.

Street names

Batu, Bikers Coffee, Black Beauties, Chalk, Chicken Feed, Crank, Crystal, Glass, Go-Fast, Hiropon, Ice, Meth, Methies, Quick, Poor Man's Cocaine, Shabu, Shards, Speed, Stove Top, Tina, Trash, Tweak, Uppers, Ventana, Vidrio, Yaba, Yellow Bam



Looks like

Regular meth is a pill or powder. Crystal meth resembles glass fragments or shiny blue-white "rocks" of various sizes.

Methods of abuse

Meth is swallowed, snorted, injected, or smoked. To intensify the effects, users may take higher doses of the drug, take it more frequently, or change their method of intake. In some cases, meth abusers go without food and sleep while taking part in a form of bingeing known as a "run." Meth users on a "run" inject as much as a gram of the drug every two to three hours over several days until they run out of meth or become too disorganized to continue.

Affect on mind

Meth is a highly addictive drug with potent central nervous system (CNS) stimulant properties. Those who smoke or inject it report a brief, intense sensation, or rush. Oral ingestion or snorting produces a long-lasting high instead of a rush, which reportedly can continue for as long as half a day. Both the rush and the high are believed to result from the release of very high levels of the neurotransmitter dopamine into areas of the brain that regulate feelings of pleasure. Long-term meth use results in many damaging effects, including addiction. Chronic meth abusers exhibit violent behavior, anxiety, confusion, insomnia, and psychotic features, including paranoia, aggression, visual and auditory hallucinations, mood disturbances, and delusions — such as the sensation of insects creeping on or under the skin. Such paranoia can result in homicidal or suicidal thoughts. Researchers have reported that as much as 50% of the dopamine-producing cells in the brain can be damaged after prolonged exposure to relatively low levels of meth. Researchers also have found that serotonin-containing nerve cells may be damaged even more extensively.

Affect on body

Taking even small amounts of meth can result in increased wakefulness, increased physical activity, decreased appetite, rapid breathing and heart rate, irregular heartbeat, increased blood pressure, and hyperthermia (overheating). High doses can elevate body temperature to dangerous, sometimes lethal, levels as well as cause convulsions and even cardiovascular collapse and death. Meth abuse may also cause extreme anorexia, memory loss, and severe dental problems.

Drugs causing similar effects

Cocaine and potent stimulant pharmaceuticals, such as amphetamines and methylphenidate, produce similar effects.



Drug Fact Sheet

Methamphetamine – cont'd.

Overdose effects

High doses may result in death from stroke, heart attack, or multiple organ problems caused by overheating.

Legal status in the United States

Methamphetamine is a Schedule II stimulant under the Controlled Substances Act, which means that it has a high potential for abuse and limited medical use. It is available only through a prescription that cannot be refilled. Today there is only one legal meth product, Desoxyn®. It is currently marketed in 5-milligram tablets and has very limited use in the treatment of obesity and attention deficit hyperactivity disorder (ADHD).

Common places of origin

Mexican drug trafficking organizations have become the primary manufacturers and distributors of methamphetamine to cities throughout the United States, including in Hawaii. Domestic clandestine laboratory operators also produce and distribute meth but usually on a smaller scale. The methods used depend on the availability of precursor chemicals. Currently, meth is mainly made with diverted products that contain pseudoephedrine. The Combat Methamphetamine Epidemic Act of 2005 requires retailers of non-prescription products containing pseudoephedrine, ephedrine, or phenylpropanolamine to place these products behind the counter or in a locked cabinet. Consumers must show identification and sign a logbook for each purchase.

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Property Assessed Clean Energy (PACE)

STUDY SESSION MEETING DATE: June 17, 2013

CITY DEPARTMENT: Economic Development

PREPARED BY: Melanie Smith, Assistant City Manager

The Missouri Legislature passed a law that provided for Property Assessed Clean Energy Financing in 2010 (HB 1692). This law allows for commercial, agricultural and industrial property owners to finance energy efficient improvements for their properties as long the energy savings is enough to cover the cost of the improvement over the lifespan of the project, similar to the Performance Contract that the City is currently working to complete. The improvements are financed through low interest bonds that are repaid through a special assessment on the property's annual tax bill. One of the benefits to the property owner is that the assessment stays with the property until paid, so if the property is sold, the assessment goes to the new owner with the property.

Municipalities and Counties can choose to establish their own Clean Energy Development Board, which will operate the program, or they can choose to join an existing Board. Missouri currently has one Clean Energy Board, Missouri Clean Energy District (MCED), which includes the following members: Jefferson City, Cole County, Hazelwood, Ferguson, Olivette and Branson. Cities and Counties must pass an ordinance to join the District and then each member has an "elector/advisor" who votes for the five (5) board member seats on the MCED board. The program is administered by the Missouri Clean Energy Funding (MoCEF, LLC) based in Ballwin, MO. MoCEF will then work with local Economic Development Personnel to help market the program to companies who might benefit from the program. Once a potential project has been identified, the property owner works directly with MoCEF personnel to complete the application and project process.

The informational flyer provided by MCED is included with this study session packet. Although the program is currently only open to commercial property owners, it could be expanded to residential in the future, based on demand. There is no cost to the City to join MCED. Membership would be an added benefit for our business industry and another economic development tool that KREDI and the City can use in the future.

LEGISLATIVE SUMMARY OF THE PROPERTY ASSESSMENT CLEAN ENERGY ACT
(Sections 67.2800 - 67.2835) The Property Assessment Clean Energy Act is established which:

- (1) Authorizes one or more municipalities to form a clean energy development board to establish a property assessed clean energy program to finance energy efficiency or renewable energy improvement projects. A property owner can apply to the board to finance the costs of the project through an annual special assessment to be collected with his or her property tax for up to 20 years;
- (2) Requires the board to consist of at least three members. The number of board members and their terms are to be specified in the ordinance or order establishing the board. If only one municipality is participating in the board, the chief elected officer will appoint board members with the consent of the governing body. If more than one municipality is participating, members will be appointed in a manner agreed to by all participating municipalities;
- (3) Requires the board to be a political subdivision of the state and have all powers necessary to carry out the provisions of the act;
- (4) Requires the board to submit an annual report by July 1 to each municipality that participated in the formation of the board and the Director of the Department of Natural Resources. The report must include a brief description of each project financed by the board, the amount of assessments due and the amount collected, the board's administrative costs, the estimated cumulative energy savings from the projects financed during the preceding year, and the estimated cumulative energy produced by all renewable energy improvements financed during the preceding year;
- (5) Specifies that no lawsuit to set aside the formation or to otherwise question the proceedings related to the formation of the board may be brought after 60 days from the effective date of the ordinance or order establishing the board. No lawsuit can be brought to set aside the approval of a project, an assessment contract, or a special assessment levied by a clean energy development board after 60 days from the date that the assessment contract is executed;
- (6) Specifies the contractual requirements for any assessment contract between the board and the benefitted property owner or owners;
- (7) Specifies that the total special assessments levied against a property under an assessment contract cannot exceed the total cost of the project including any required energy audits and inspections;
- (8) Requires the board to provide a copy of the signed assessment contract to the local county assessor and collector, as well as ensure that a copy of the assessment contract is recorded with the county recorder of deeds;
- (9) Specifies that the special assessments agreed to under the contract will be a lien on the property against which it is assessed on behalf of the board. The assessments will be collected by the county collector in the same manner as other real property taxes;
- (10) Authorizes a board to issue bonds payable from special assessment revenues; and
- (11) Authorizes the Director of the Department of Economic Development to allocate any portion of the state's residual share of the national qualified energy conservation bond limitation under Section 54D of the Internal Revenue Code to specified state and local entities.



MISSOURI CLEAN ENERGY DISTRICT

Benefits to Municipalities:

- ◆ Significant job creation and or retention.
- ◆ Increased Property Values
- ◆ Increased Tax and Sales Revenue
- ◆ No Costs or Credit Risk for Participating Municipalities
- ◆ Encourages Investment by Property Owners
- ◆ Stabilization of Energy Costs for Constituents

Special Points of Interest:

- ◆ PACE Provides Unlimited Capital Resources to member communities
- ◆ The District is already established therefore no local effort or expense is required.
- ◆ Member communities bear no liability or administrative responsibility for program operation.



A University of Missouri Extension Service

FINANCING OF RENEWABLES AND ENERGY EFFICIENCY

Missouri's Clean Energy District was formed in January of 2011. The District operates as a political subdivision following the enactment of the PACE Act of Missouri (HB 1692) during the 2010 legislative session.



Under the program, municipalities and counties may join the Special Tax District to help property owners finance energy retrofits by allowing an owner to place an additional tax assessment on his or her property.¹

Property owners who invest in energy efficiency (EE) measures and renewable energy (RE) systems repay these assessments over a period up to 20 years via additional

annual payments on their property tax bills.

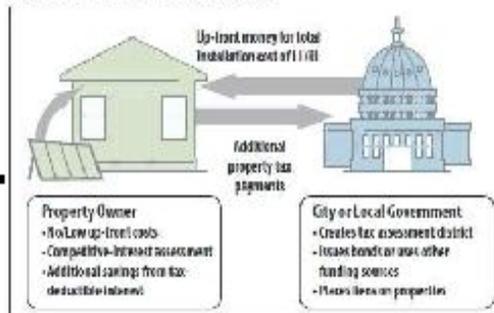
Communities that provide access to PACE funding for their property owners can address two major road-blocks to clean energy growth:

1) **-Lack of Capital:** Property owners often balk at the up-front cost of EE/RE improvements. While some are willing to make the investment, most are cautious about any investment, especially in the current economic environment. To finance EE/RE improvements,

property owners have had to self-finance (e.g., get equity loans) or rely on small-scale state or local government rebates and other financial incentives.

2) **-Hesitancy to Make Long-Term EE/RE Investments:** Because many owners move every 5 to 7 years, they hesitate to make a long-term investment. PACE assessments are transferable, allowing owners to recoup their investment upon sale of the improved property.

Figure 1. Basic PACE financing



PACE BASICS

The pivotal innovation of PACE is the creation of EE/RE assessments that are tied directly to a property and repaid via the property tax bill. The voluntary assessment, which is secured by a senior lien on the property, does not require an up-front payment.² The lien provides strong debt collateral in the event a property owner defaults on the

assessment. And, because the assessment and lien are tied directly to the property, they can be transferred upon sale.

The basic flow of financing activity is shown above in the box labeled Figure 1.

¹ Assessments are similar to loans in that they allow a property owner to pay off debt in installments over a period of time. However, PACE assessments are not legally considered as loans.

² PACE program may require application and administration fees, some of which may need to be paid up front, but which may be included as part of the financing.

MISSOURI CLEAN ENERGY BOARD

District Board members are elected by member municipalities annually.

officials may serve as Electors or Board members.

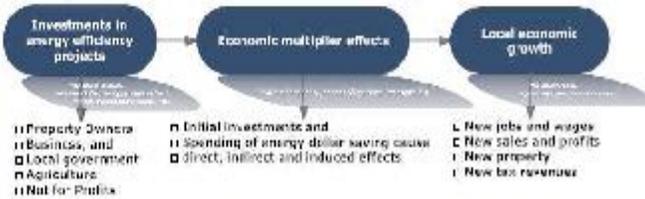
This system of board operation is a way of acknowledging the importance of local input.

To ensure local representation, each member municipality of the District designates an advisory board member and certifies in writing to the Secretary of the Board one Elector to represent the member at annual meetings. The elector need not be the Advisory Committee member. And neither Directors nor elected

The intent of this arrangement is to provide ample opportunity for the member community to have input while maintaining a reasonable number of board positions and a manageable working board.

The District has already begun its operations. The program parameters, funding guidelines and contract documentation have been established.

Energy Dollars Impact the Local Economy



"The program allows property owners to make energy-saving modifications through a voluntary assessment on the property, at no cost to local taxpayers. Our authority provides access to virtually unlimited capital for communities with membership in the PACE program. This will promote conservation, energy savings and job creation."

*--Tom Sadowski
Chairman, MCED*

FUNDING

The District's purpose is to provide sustainable capital for qualifying EE/RE projects in communities across the state. When municipalities join together they create a broad base of demand for capital and therefore an opportunity for scale—and ultimately to a reduced cost of borrowing for property owners. One of the most attractive aspects of the

program to members is cooperation among communities which becomes a gateway to the lowest possible cost in terms of interest rates available to property owners.

An interim warehouse facility has been arranged by the District to accommodate the funding of individual projects as required. Once sufficient projects have been funded, the District issues bonds in the municipal market.

Program funding is provided through the municipal bond market.

JOBS

PACE has the ability to stimulate local job creation through the installation of EE / RE improvements on private property – jobs that can't be outsourced.

bin federal, state, and local tax revenue, and 60 jobs.



Recent case study research into the economic impact on jobs found that \$4 million in total PACE spending across the study area generated \$10 million in gross economic output, \$1 million in com-

It is estimated that for each one million dollars in project expenditures, between 13 to 15 jobs can be created.

Extrapolating from this study, if each municipality in Missouri produced just five appli-

cations annually for property improvement investments averaging \$20,000, the economic impact would translate into \$75 million in gross economic output—increased federal, state, and local tax revenue,—and over 1,000 jobs.

IT MUST WORK FOR EVERYONE IF IT IS TO WORK FOR ANYONE

As a financing mechanism, PACE provides relatively small funding amounts to individual property owners—and then bundles multiple contracts together for the purpose of accessing the municipal bond market. Certain efficiencies of scale are necessary to spread financing costs. It is for that reason that pooling of projects from multiple municipalities is required.

PACE program. Even the largest of Missouri Municipalities haven't the capacity for such

tion of the Missouri PACE Act is to provide access to capital through municipal member-



ship to the District. Here is a case where the best of intentions and a willingness to invest in the community is not enough.

There are, and always have been, plenty of resources for the more highly populated areas, but in the case of the Property Assessed Clean Energy model rural and urban areas must participate in a program that will provide a mutual benefit.

It is generally understood that no single municipality can establish a truly sustainable

a program. Therefore the board has determined the best practice for implementa-

"[PACE] allows cities and counties to . . . provide financing for all upfront costs of energy efficient upgrades, renewable energy upgrades and energy audits for homes and businesses.

Those upgrades can be costly, and this assistance will help many projects move forward. The bill was supported by a broad range of groups including utilities, consumer advocates and environmental groups."

—Gov. Jay Nixon

ACTION STEPS FOR MEMBERSHIP

Counties, cities and incorporated towns and villages in Missouri have the exciting opportunity to join the District and provide the benefits of PACE to their communities!

quire additional work load, budget impact or liability for local governments. The Board provides the necessary administrative functions so that communities have access to funding while avoiding the burden of running another new program. The Board has engaged an administrator to run day to day operations of the program.

The Clean Energy District also has engaged municipal counsel to produce specimen ordinances for the use of cities, towns and counties in authorizing District membership.

Local governments are struggling to maintain programs and services in difficult times. The benefit of our PACE program is that it does not re-

The specimen ordinance is available at no cost to municipalities who wish to join as a member of the District.

ELIGIBLE PROPERTIES & PROJECTS

The PACE program will accept applications for the following property types:

- Commercial
- Industrial
- Agricultural
- Multi-family
- Not-for-profit
- Public facilities



Initially, the Clean Energy District provides funding for these non-residential properties.

Due to a dispute between PACE programs nationally and FHFA, the funding for residential properties is on hold. It is expected that there will be a resolution to this issue in the near future.

Meanwhile, applications for qualifying properties will be accepted for EE and RE projects proposing any acquisition, installation, or modification on public or private property designed to reduce the energy consumption of the property, including a wide variety of project types.

Nearly any project which can show an energy saving with a reasonable payback qualifies.

PACE Administrator:
MoCEF LLC

David Pickard
930 Katers Mill Road, Suite 322
Ballwin, MO 63011-2145

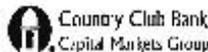


Phone: 866.554.4083 or
314.769.8300
E-mail: dpickard@MoCEF.mo.gov

Administrator's site: www.MoCEFLC.com



Legal Counsel to the District



Financial Advisor to the District

"Since virtually every economic activity of modern industrial life is made with and run by fossil fuels — it stands to reason that [energy] efficiency is central to the story of productivity and economic growth."

—Jeremy Rifkin

Third Industrial Revolution

PROGRAM ADMINISTRATION

- ◆ *MoCEF provides administrative services to the Missouri Clean Energy District.*
- ◆ *MoCEF is distinguished as Missouri's first PACE administrator. Engaged by Missouri's newly established Clean Energy District, MoCEF's aim is to provide access to PACE funding in communities throughout the state at no cost to the sponsoring local government.*
- ◆ *MoCEF offers Missouri municipalities—including towns, villages, cities and counties, that wish to provide community access to the PACE program—a no cost solution to program design, administration, marketing and financing administration. This is unique among PACE program providers nationally.*

FEDERAL, STATE AND LOCAL SUPPORT FOR PACE

The Recovery Through Retrofit Act of 2009 identified three major market barriers to the widespread deployment of EE/RE technologies, one of which is access to affordable financing.

The interagency working group responsible for the report recommended providing program guidance to local government financing programs to address the financing barrier. The U.S. Department of Energy has also supported PACE funding programs through technical assistance, webinars, and online resources for ARRA Act grantees that pursued long-term financing mechanisms for energy retrofits.

The US Department of Energy provided \$452 million in funds to communities that received the grants as part of

the Energy Efficiency Block Grant Program. The funds were used to creating models to make savings accessible, for example by offering low cost loans that are repaid through property tax systems.

The design of the state-wide PACE Program in Missouri was initiated by the law enabling Missouri communities to establish a special assessment district that recognize EE and RE as a public "good."

While each locality can pass ordinances creating assessment districts, it is most likely that the best practice for a sustainable, widely available program, is for communities

to join with the state-wide district.

With proper mechanisms for community representation on the board (as discussed elsewhere within this publication) municipalities may provide a value proposition that can enhance community support tools. PACE

is a unique source of community capital which can be highly valuable to development efforts.

As competition for the development dollar becomes stronger and stronger, having access to capital without extensive barriers to entry is a blessing for Missouri municipalities.



AN ORDINANCE AMENDING THE KIRKSVILLE CITY CODE BY ADDING A NEW CHAPTER ENTITLED HUMAN RELATIONS, TO INCLUDE THE HUMAN RIGHTS COMMISSION, FAIR HOUSING CODE AND PUBLIC ACCOMMODATIONS; AND REPEALING SECTIONS 13-18 AND 13-19 OF THE CITY CODE REGARDING FAIR HOUSING, AND PLACING A NEW FAIR HOUSING CODE WITHIN THE NEW CHAPTER 10.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI.

Section 1. That Sections 13-18 and 13-19 Fair Housing of the Code of Ordinances of the City of Kirksville, Missouri, be repealed, and replaced with a new section as a part of the new Chapter 10 – HUMAN RELATIONS.

Section 2. That a new Chapter, entitled HUMAN RELATIONS is established to be numbered as 10, to read as follows:

ARTICLE I. IN GENERAL

ARTICLE II. HUMAN RIGHTS COMMISSION

Sec. 10-31 Created; composition; appointment, qualification of members.

A Human Rights Commission “Commission” is hereby created and established which shall consist of nine (9) persons. The Commission members shall be residents of the City of Kirksville. Members, to the extent possible, broadly representative of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation. The Commission shall be appointed by the City Council based upon their interest, and an expressed commitment. Commission members shall serve without compensation.

Sec. 10-32. Purpose.

The Commission shall review and advise the council on ways to:

~~(a) Promote community awareness and education on the value of diversity to the community.~~

(b) Work to eliminate discrimination based on of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(c) Develop tools necessary to establish the Commission as an active servant and leader that is a transparent service to the community, including periodic review of this enabling ordinance.

(d) Promote responsiveness of government to concerns of all minority groups and others in the community that may be subject to bias or discrimination.

~~(e) Encourage the creation of community programs and activities that are available and accessible to all Kirksville residents.~~

(f) Provide an open and inviting forum for Kirksville residents who believe they are facing discriminatory practices or acts so that residents can share those experiences with the Commission for advice and counsel.

Sec. 10-33. Terms of members; removal; vacancies.

In the original appointment of members to the Commission one-third (1/3) of those appointed shall be appointed for a term of one (1) year; one-third (1/3) of those appointed shall be appointed for a term of two (2) years and one-third (1/3) of those appointed shall be appointed for a term of three (3) years; and thereafter all appointments shall be for a three (3) year term. The council may remove any member of the Commission at any time without cause.

A member's absence may be excused by the Chair or the Vice-Chair in the absence of the Chair upon request provided such request is made prior to the meeting. Any member who is absent, without being excused from three (3) consecutive meetings or 25% of the regular meetings within a calendar year shall be considered to have resigned. Such resignation shall be presented in writing as a recommendation to the City Council by the Chair through the City Clerk.

Each member of the Commission shall serve until a successor is duly qualified and appointed. In the event of the death, resignation, or removal of any member, a successor shall be appointed to serve the unexpired term for which such member had been appointed.

Sec. 10-34. Organization.

The officers of the Commission shall consist of a Chairperson and a Vice-Chairperson who shall be elected by the members of the commission. Such officers shall serve in their respective offices for a term of one year, or until their successors shall be elected, unless re-elected to such office.

Sec. 10-35. Rules of procedure; meetings; records.

(a) The Commission shall make such rules and regulations as it deems necessary for the conduct of its affairs. Such rules and any subsequent amendments shall be filed with the City Clerk and subject to Council approval.

(b) The Commission shall meet **initially on a monthly basis and at least quarterly** at a fixed time, place and day of the week. Special meetings may be called by the Chairperson. Notice of all meetings shall be posted in accordance with State **Sunshine** Law.

(c) All meetings shall essentially be conducted in conformity with Robert's Rules of Order.

(d) The Commission shall keep a complete record of its activities and a journal of all of its meetings and proceedings **in accordance with the State Sunshine Law**.

Sec. 10-36. Powers and duties generally.

The Commission shall have the powers and duties to:

~~(a) Formulate and conduct educational programs designed to minimize or eliminate discriminatory acts.~~

(b) Provide a forum for individuals who believe they have been victims of discrimination.

(c) Gather and maintain a list of referral agencies and organizations best capable of providing assistance for the purpose of aggressively obtaining a resolution of the issue.

~~(d) Cooperate with other organizations and private and public educational institutions to seek ways to eliminate discrimination.~~

(e) Advise the City Council on human rights issues.

~~(f) Hold forums on the state of human rights and relations in the city and on general human rights issues.~~

(g) Recommend that staff create new process(es) for placing matters of concern or service requests before the Commission and other areas of city government, which shall be periodically evaluated for effectiveness.

(h) Accept comments and concerns of citizens given at Commission meetings.

- ~~(i) Sponsor or initiate focused workshops and ongoing programs to improve human relations and foster understanding and acceptance of each other.~~
- (j) To present, upon request, informational programs and literature on human rights to schools, businesses, and other organizations.
- ~~(k) To conduct an annual human rights symposium on such issues facing the community and society at large.~~
- (l) To develop a strategic plan for accomplishing the goals and responsibilities outlined in this ordinance, to be re-evaluated every three (3) years.
- (m) To prepare and publish a written annual report describing the activities of the prior twelve (12) months by December 31 of each year.
- (n) To recommend the creation, expansion and/or focus on specific Kirksville Police programs and joint programs administered by the Kirksville Police and specified community members.

Sec. 10-37. Administration and Assistance by the city attorney.

The City, through the office of the City Manager, shall assign ~~to the Commission such office space and facilities and such necessary~~ clerical help as shall be necessary for the fulfillment of **the requirements of this ordinance** ~~its~~ duties. The city attorney shall render such legal services as shall be necessary.

Sec. 10-38. Definitions.

(a) Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context otherwise indicates:

Aggrieved person. Includes any person who claims to be a victim of discriminatory practices.

Chairman shall mean the chairman of the commission.

Code shall mean this chapter.

Commission shall mean the Human Rights Commission of the City of Kirksville, Missouri.

Disability. A physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. However, a person may be considered to have a disability if that person:

- (1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
- (2) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
- (3) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

Discriminate. Means distinctions in treatment because of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person. Discriminatory housing practice shall mean an act that is unlawful under section 10-59.

Dwelling shall mean any building, structure, or portion thereof located within the city, which is

occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Family includes a single individual.

Gender identity shall mean the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth. Handicap means a physical or mental impairment resulting in a disability unrelated to a person's ability to acquire, rent or maintain property.

Person. Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Protected category. Ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

Sexual Orientation shall mean an individual's real or perceived heterosexuality, homosexuality or bisexuality.

ARTICLE III. DISCRIMINATORY PRACTICES

Sec. 10-41. – Employment

It shall be unlawful:

- (1) For an employer, because of any individual's protected category:
 - a. To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment.
 - b. To limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee.
- (2) For a labor organization, because of any individual's protected category:
 - a. To exclude or to expel such individual from its membership or to discriminate in any manner against any of its members or against any employer or any individual employed by an employer.
 - b. To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any individual in any manner which would deprive or tend to deprive any individual of employment opportunities, or would limit such opportunities or otherwise adversely affect such individual's status as an employee or as an applicant for employment.
- (3) For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining.
- (4) Because of any individual's protected category:
 - a. For any employer or employment agency to print or circulate or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination, unless based upon a bona fide occupational qualification.
 - b. For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, or to classify or refer for employment, any individual.

(5) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any individual because such individual has opposed any act, practice or course of conduct made unlawful by, or filed a complaint, testified, or assisted in, any proceeding under this Chapter.

(6) For any person, whether an employer or employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts made unlawful by this Chapter, or to attempt to do so.

(a) Notwithstanding any other provision of this Chapter, it shall not be unlawful for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees in different locations; provided, that such differences or such systems are not the result of an intention or design to discriminate, and are not used to discriminate, because of any individual's protected category; nor shall it be unlawful for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of any protected category.

(b) Nothing contained herein shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this Chapter to grant preferential treatment to any individual or to any group because of such individual's or group's protected category on account of an imbalance which may exist with respect to the total number or percentage of individuals of any protected category employed by any employer, referred to or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of individuals of such protected category in the city, or in the available work force in the city.

(c) Notwithstanding any other provision of this Chapter, it shall not be unlawful because of sex to differentiate in employment compensation, terms, conditions or privileges of employment between male and female employees if such differences are otherwise required or expressly permitted by the laws of the state, or by the provisions of Section 703 of the Federal Civil Rights Act of 1964, as amended, or by the provisions of section 6(d) of the Federal Fair Labor Standards Act of 1938, as amended; nor shall it be unlawful because of sex for an employer, pursuant to a pension, retirement, profit sharing, welfare or death benefit plan, to provide for the retirement of female employees at a younger age than male employees or to provide differences in annuity, death and survivors benefits between widows and widowers of employees.

(d) Notwithstanding any other provisions of this Chapter, it shall not be unlawful for any church or religious school or religious day care center to consider sexual orientation or gender identity in any hiring or employment action.

~~Sec. 10-59 and 90.~~

~~That Sections 13-18 and 13-19 Fair Housing of the Code of Ordinances of the City of Kirksville, Missouri, be moved to the new Chapter 10 — HUMAN RELATIONS, and renumbered as follows: Article III. Sec. 10-59 and 10-90.~~

Sec. 10-59. - Fair housing.

The city council hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation. This article shall be deemed an exercise of the police powers of the city for protection of the public welfare, prosperity, health and peace of the citizens of Kirksville.

(1) *Discriminatory practices.* It shall be a discriminatory practice and a violation of this article for any person to:

a. Refuse to sell or rent after the making of the bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person.

b. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

c. Make, print, or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation or an intention to make any such preference, limitation, or discrimination.

d. Represent to any person because of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

e. For profit, to induce or attempt to induce, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

f. Bars discrimination in the sale or rental of dwellings on the basis of a handicap, and requires the design and construction of new multifamily with four (4) or more units to meet certain federal adaptability and accessibility requirements.

g. Bars discrimination in the sale or rental of housing because a family has children, but exempts certain types of buildings that house older persons, e.g., section 202 Housing.

(2) Discrimination in the financing of a house. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan to a person applying therefore for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against a person in the fixing of the amount or conditions of such loan, because of the ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of such person or of any person associated with such person in connection with such financing.

(3) Exemptions. The provisions of this chapter, and particularly [section 10-90](#) hereof, shall not apply to the following:

a. A rental or leasing of a dwelling unit in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or members of the family reside in such a dwelling unit.

b. A rental or leasing to less than five (5) persons living in a dwelling unit by the owner, if the owner or members of the family reside therein.

c. Any single-family house sold or rented by an owner, provided that such house is sold or rented:

1. Without the use of sales or rental facilities or services of real estate brokers, agents, salesmen, or persons in the business of selling or renting dwellings; and

2. Without the publication, posting or mailing of any advertisement in violation of [10-59\(1\)\(c\)](#) of this chapter; provided, however, that nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title, and that any such private individual owner does not own any interest in, nor is there owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time.

d. For the purposes of [section 10-59\(3\)c.](#) a person shall be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
2. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

ARTICLE IV. PUBLIC ACCOMMODATIONS

Sec. 10-70. Discrimination in Public Accommodations Prohibited.

(a) All persons within the City of Kirksville are free and equal and shall be entitled to the following equal use and enjoyment within the City at any place of public accommodation without discrimination or segregation on account of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(b) It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation as defined in § 213.010, R.S.Mo., or segregate or discriminate against any such person and the use thereof on the grounds of ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(c) The provisions of this Section shall not apply to a private club, place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in § 213.010, R.S.Mo.

ARTICLE V. ADMINISTRATION

10.80. Administration.

a. There is hereby created a compliance officer who shall be appointed by the city manager of the city.

b. Every complaint of a violation of this chapter shall be referred to the compliance officer. The compliance officer shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at the time. If the compliance officer, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the fair housing officer finds that there is merit in the complaint, in their opinion, then and in that event, the fair housing officer will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

c. If the compliance officer is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in that event, the compliance officer shall forward said complaint to the human rights commission for handling. The human rights commission shall consist of all the members of the human rights commission.

d. If the commission is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in that event, the human rights commission shall forward said complaint to the city attorney for handling. The final determination of whether or not to prosecute on said complaint shall be left to the city attorney.

ARTICLE VI. ENFORCEMENT

Sec. 10-90. - Enforcement.

(a) Any person convicted of a violation of this chapter shall be punished by a fine of not more than five hundred dollars (\$500.00) or by confinement in the city jail for not more than ninety (90) days, or by both such fine and imprisonment.

(b) The city attorney, instead of filing a complaint in municipal court of said city, may, as an alternative remedy, seek to have the alleged discriminatory practices abated by an action for an injunction to be maintained in the appropriate circuit court of the State of Missouri.

Section 3. This ordinance shall become effective upon its passage.

Section 4. The provisions of this ordinance shall become effective on August 12, 2013 and 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 re-numbered to conform to the uniform numbering system of the Code.

Passed by the City Council and signed by the Mayor of this _____ day of _____, 2013.

Richard L. Detweiler, Mayor

ATTEST:

Vickie Brumbaugh, City Clerk