

TITLE VI. BUSINESS AND OCCUPATION

CHAPTER 600: ALCOHOLIC BEVERAGES

SECTION 600.010: DEFINITIONS

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

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

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

COMMON EATING AND DRINKING AREA: An area or areas within a building or group of buildings designated for the eating of food and drinking of liquor sold at retail by establishments which do not provide areas within their premises for the consumption of food and liquor, where the costs of maintaining such area or areas are shared by the payment of common area maintenance charges, as provided in the respective leases permitting the use of such areas or otherwise, and where the annual gross income from the sale of prepared meals or food consumed in such common eating and drinking area is, or is projected to be, at least two hundred seventy-five thousand dollars (\$275,000.00).

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

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

MALT LIQUOR: An intoxicating liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) alcohol by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water.

ORIGINAL PACKAGE: Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other containers of intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor.

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

PLACE OF ENTERTAINMENT: Any establishment located in a City which has occupancy capacity for patrons of at least three hundred (300) and which has gross annual sales in excess of two hundred

fifty thousand dollars (\$250,000.00) and the establishment has been in operation for at least one (1) year.

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

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

SECTION 600.020: LICENSE REQUIRED—CLASSES OF LICENSES

- A. No person shall sell or offer for sale intoxicating liquor in the City of Gerald without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and sub-categories of liquor sales in which the licensee desires to engage as set forth herein.

- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor:
 - B.1. *Package liquor—malt liquor only.* Sales of malt liquor at retail in the original package not for consumption on the premises where sold.
 - B.2. *Package liquor—all kinds.* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsections B (1 and 2) of this Section.
 - B.3. *Liquor by the drink—malt liquor/light wine only.* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsection (B)(1) of this Section.
 - B.4. *Liquor by the drink—all kinds.* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection (B)(3) of this Section.
 - B.5. *Common eating and drinking areas.* Sales of intoxicating liquor of all kinds by the drink at retail not for consumption on the premises where sold but for consumption in a common eating or drinking area.

- C. *Sunday Sales.* Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 11:00 A.M. and Midnight:
 - C.1. *Package liquor—all kinds.* Sales of liquor of all kinds in the original package at retail, not for consumption on the premises where sold.

- C.2. *Liquor by the drink—restaurant bar.* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.
- C.3. *Liquor by the drink—amusement place.* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.
- C.4. *Liquor by the drink—place of entertainment.* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.
- C.5. *Liquor by the drink—common eating and drinking area.* Sales of liquor of all kinds by the drink at retail not for consumption on the premises where sold but for consumption in a common eating or drinking area.
- D. *Permits.*
- D.1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below, may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
- D.2. *Wine tasting permit.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsection (B)(3) of this Section above, may apply for a special permit to conduct wine tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine for on premises consumption.

SECTION 600.030: LICENSE REGULATIONS

A. Package Sales, Limitations.

- A.1. No license shall issue for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter.
- A.2. No license for the sale at retail of any and all kinds of intoxicating liquor in the original package shall be granted or issued to any person if the gross sales of said intoxicating liquor shall exceed fifty percent (50%) of the gross sales generated by said person at the licensed location.

B. Newly-Opened Restaurant Bars, Amusement Places.

- B.1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the

premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from

prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be pro-rated for the period of the temporary license based on the cost of the annual license for the establishment.

B.2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be pro-rated for the period of the temporary license based on the cost of the annual license for the establishment.

C. *Temporary Permit For Sale By Drink—Certain Organizations.*

C.1. The City Clerk may issue a permit for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization in any fiscal year.

C.2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.

C.3. At the same time that an applicant applies for a permit under the provisions of this Section, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.

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

D. *Operating Hours, Days.*

D.1. No licensee or any employee of such licensee shall sell, give away or otherwise dispose of, or allow the same to be done, on or about the premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays, and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.

D.2. When January first (1st), March seventeenth (17th), July fourth (4th), or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his or her license on that day from the time and until the time which would be

lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *General License Regulations.*

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

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

G. *Fees Taken In Lieu Of Proportionate Part Of Merchant's Tax And Ad Valorem Tax.* The fees to be charged under the provisions of this Section shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for the stock and sales of intoxicating liquor under the provisions of this or any other ordinance of the City, and the aggregate amount of the sales thereof made by any license hereunder shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock of sales be included in the computation of any merchant's license or ad valorem tax.

SECTION 600.040: SCHEDULE OF LICENSE FEES

The following categories and sub-categories of licenses shall be issued upon compliance with the

provisions of this Chapter and payment of the license fee indicated:

- .1. *General licenses.*
 - .1.a. Malt liquor—original package \$ 22.50
 - .1.b. Intoxicating liquor (all kinds)—original package 50.25
 - .1.c.Malt liquor
and/or light wines—by the drink 52.50
 - .1.d. Intoxicating liquor (all kinds)—by the drink 200.00
 - .1.e.Restaurant-bar
by the drink 200.00
- .2. *Sunday sales.*
 - .2.a. Intoxicating liquor—original package 100.00
(must already hold package liquor license)
 - .2.b. Restaurant bars 100.00
 - .2.c.Amusement
places 100.00
- .3. *Permits.*
 - .3.a. Temporary permit—by the drink for certain organizations (7 days max.)5.00/day
 - .3.b.Wine tasting
permit 5.00/day

Of the license fee to be paid for any such license, the applicant shall pay as many twelfths (12ths) as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July first (1st). (Ord. No. 388, 9-22-94)

SECTION 600.050: APPLICATION FOR LICENSE AND RENEWAL—TERM

- A. *Filing Of An Application.* Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.
- B. *Qualifications.* Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or

license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business, and

if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The Board of Trustees also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.

- C. *Hearing On Application.* Upon the filing of the application with the Clerk, the Clerk shall fix a date for a hearing before the Board not more than thirty-one (31) days from the date of filing of the application, and shall give the applicant written notice of the date of the hearing. The hearing shall be conducted in accordance with Section 600.090 of this Chapter.
- C.1. The Board shall consider the location of the proposed business for which a license is sought with respect to its proximity to a school, a church, a public park or playground and to other places of the character for which a license is sought, and shall have authority to refuse to issue a license when in their judgment the issuance thereof would not be in the best interests of the locality in which the applicant applies for a location of such place. In no event shall the Board approve the issuance of a license for the sale of liquor within three hundred (300) feet of any school, church or other building regularly used as a place of worship unless the applicant for the license shall first obtain the consent in writing of the board of directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship; except that when a school, church or place of worship shall thereafter be established within three hundred (300) feet of any place of business licensed to sell intoxicating liquor, renewal of the license shall not be denied for lack of consent in writing as herein provided.
- C.2. The Board shall approve the application if after the hearing it finds that:
- C.2.a. Issuance of the requested license would be in the best interests of the locality of the proposed business;
- C.2.b. The applicant is a person of good moral character, a native born or naturalized citizen of the United States of America, a registered voter and a taxpaying citizen of the City;
- C.2.c. No license theretofore issued to such applicant to sell intoxicating liquors has been revoked within two (2) years of the date of the application;
- C.2.d. The applicant has not been convicted since the ratification of the Twenty-first Amendment to the Constitution of the United States of the violation of any law applicable to the sale of intoxicating liquor, or that such applicant has not employed in his/her business any person whose license has been revoked or who has been convicted of violating the provisions of such law since the date aforesaid;
- C.2.e. The application is supported in writing by a majority of the property owners within two hundred (200) feet of the location in which the applicant proposes to conduct a retail liquor business; and

C.2.f. The applicant plans and proposes to conduct a retail liquor business in compliance with the laws of the State of Missouri, the ordinances of the City and the provisions of this Chapter.

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

SECTION 600.060: MINORS

A. Persons Eighteen Years Of Age Or Older May Sell Or Handle Liquor Or Beer—When.

- A.1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor.
- A.2. In any place of business licensed in accordance with this Chapter, where at least fifty percent (50%) of the gross sales made consists of goods, merchandise, or commodities other than intoxicating liquor in the original package, persons at least eighteen (18) years of age may stock, arrange displays, accept payment for, and sack for carry-out intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years.
- A.3. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages.

B. Sales To Minor—Exceptions. No licensee, his/her employee, or any other person, shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only, or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of the licensee.

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

- C.1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.

C.2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's

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

- D. *Purchase Or Possession By Minor, Misdemeanor.* No person under the age of twenty-one (21) years shall purchase, attempt to purchase, possess or attempt to possess any intoxicating liquor except as otherwise authorized by law. For purposes of prosecution, a manufacturer sealed container which describes its contents as intoxicating liquor need not be opened or the contents tested to establish the contents as intoxicating liquor.

SECTION 600.070: MISCELLANEOUS OFFENSES

- A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler.* It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.
- B. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage, any drug or form of methyl alcohol or impure form of alcohol.
- C. *Unlawful To Sell Unlabeled Liquor—Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.
- D. *Only Those Liquors Authorized By License To Be Kept On Premises.* It shall be unlawful for any licensee to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.
- E. *Off-Premises Consumption.*
- E.1. No licensee shall sell intoxicating liquor at retail in the original package, not to be consumed on the premises where sold, in any original package containing less than eight (8) ounces.
- E.2. No licensee shall permit any person to remove from the licensed premises any intoxicating liquor in any unsealed glass, bottle, can or other open container of any type.
- E.3. All licensees shall post a notice at each exit of the premises which is used by customers or patrons that "NO ALCOHOLIC BEVERAGES MAY BE CARRIED IN AN OPEN CONTAINER OUT OF THIS BUILDING."
- F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his or her employee or agent, to sell or supply intoxicating liquor, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

G. *Drinking In Public Places Prohibited.*

G.1. For purposes of this Section, the term "*public place*" shall mean any public street, highway,

alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.

G.2. No person shall drink or ingest any intoxicating liquor in or on any public place.

G.3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.

G.4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while within or on any motor vehicle while the same is being operated upon or parked or standing in or upon any public place.

H. *Live Entertainment On Premises Prohibited.* No person licensed for the sale of intoxicating liquor by the drink for consumption on the premises shall permit or allow any live entertainment on the premises. The playing and singing of music solely shall not be considered entertainment under this Section.

SECTION 600.080: ADMINISTRATION OF LAW–LICENSE SUSPENSION

- A. *Suspension Or Revocation Of License–When–Manner.* The Board may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Board not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than five (5) days written notice to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U. S. Mail or by posting on the licensed premises. The hearing shall be conducted in accordance with Section 600.090 of this Chapter.
- B. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:
- B.1. Violating any of the provisions of either this Chapter, Chapter 311, RSMo., or any ordinance of the City;
 - B.2. Failing to obtain or keep a license from the State Supervisor of Liquor Control;
 - B.3. Making a false affidavit in an application for a license under this Chapter;
 - B.4. Failing to keep an orderly place or house;
 - B.5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
 - B.6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or

B.7. Selling, giving, or otherwise supplying intoxicating liquor to:

B.7.a. Any person under the age of twenty-one (21) years,

- B.7.b. Any person during unauthorized hours on the licensed premises,
 - B.7.c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
 - B.7.d. Any person on the licensed premises during a term of suspension as ordered by the Board.
- C. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State Liquor License is revoked or if the licensee is convicted in any court of any violation of Chapter 311, RSMo. A license shall be suspended automatically if the licensee's State Liquor License is suspended, and the suspension shall be for a term not less that imposed by the State.
- D. *Effect Of Suspension.* No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

SECTION 600.090: HEARINGS UPON APPLICATIONS FOR, OR TO SUSPEND OR REVOKE, LICENSES

- A. *Testimony—Evidence.* Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.
- B. *Witnesses—How Summoned.* Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.
- C. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.
- D. *Decision—License Application.* If the evidence supports a finding that a license should be granted, such license shall be issued in accordance with Section 600.050(F) of this Chapter. If the evidence supports a finding that the license should be disapproved, the Board shall so notify the applicant in writing, setting forth the grounds and reasons for disapproval, and shall return therewith the applicant's remittance.
- E. *Decision—Suspension or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.080 of this Chapter, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended then no such order

order shall issue.

- F. *Appeal.* Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in Chapter 536, RSMo., provided such appeal is filed within ten

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(10) days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.

SECTION 600.100: PENALTIES

Any person violating any of the provisions of this Chapter, including but not limited to the miscellaneous offenses of Section 600.070, of this Chapter shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment.

CHAPTER 605: BUSINESS LICENSES

ARTICLE I. GENERAL PROVISIONS

SECTION 605.010: LICENSE REQUIRED, GENERALLY

It shall be unlawful for any person to engage in any business, trade or profession listed in Section 94.270, RSMo., as amended in the City without first obtaining a license therefor. It is the intention of the City to exercise the fullest extent of its licensing power, and to require a license from any and all businesses, trades or professions that can be legally required to obtain a license. Each license shall be issued for one (1) calendar year. Each renewal license applicant shall apply for and pay for the required license in January of each year; such license shall be delinquent in February. Each new license applicant shall apply for, pay for, and receive the required license before the calendar year, are non-transferable, and shall not be pro-rated on application for a partial year or upon cancellation. (CC 1987 §54.010)

SECTION 605.020: FAILURE TO OBTAIN, PROHIBITED

It shall be unlawful for any person, either directly or indirectly, to conduct any business, or to use in connection therewith any vehicle, premises, machine or device for which a license or permit is required by this Chapter without the license or permit so required having been first obtained and thereafter kept in effect at all such times as required by this Chapter. (CC 1987 §54.020)

SECTION 605.030: SEPARATE LICENSE REQUIRED FOR EACH BUSINESS—EXCEPTION

For each business required by this Chapter to be licensed, a separate license shall be obtained. A person engaged in two (2) or more businesses at the same location shall not be required to obtain a separate license for each business but, when eligible, shall be issued one (1) license, which shall specify on its face all such businesses. (CC 1987 §54.030)

SECTION 605.040: OPERATING MORE THAN ONE BUSINESS AT SAME LOCATION

When any person engaging in two (2) or more businesses at the same location under one (1) license, he/she shall pay a license fee equal to the sum of all the fees for each business so licensed. (CC 1987 §54.040)

SECTION 605.050: WHEN PERSON DEEMED IN BUSINESS

Except as may be provided otherwise in this Chapter, a person shall be deemed to be in business within the meaning of this Chapter when he/she is selling any goods or service, soliciting business, or offering goods or service for sale or hire, or using any vehicle or premises in the City for business purposes. (CC 1987 §54.050)

SECTION 605.060: DETERMINATION OF WHETHER BUSINESS, ETC., COVERED BY CHAPTER

The City License Officer shall make initial determination whether any other particular business, activity, occupation, vocation or service shall be covered within the provisions of this Chapter. Such determination shall be reasonably made, based upon the generally accepted concept of each such activity, occupation, vocation or service, and with regard for the intention of the legislature in the enactment of Section 94.270, and other applicable Sections of the Revised Statutes of Missouri. Such determination by the City License Officer shall be final and binding on persons affected thereby, unless and until such determination is held unreasonable or invalid by a court of competent jurisdiction. (CC 1987 §54.060)

SECTION 605.070: RESPONSIBILITY OF REPRESENTATIVES FOR COMPLIANCE OF PRINCIPALS, ETC., WITH CHAPTER

The local agents or other representatives of non-residents who are doing business in this City shall be personally responsible for the compliance of their principals and of the businesses and enterprises they represent with all applicable provisions of this Chapter. (CC 1987 §54.070)

SECTION 605.080: LICENSE NOT REQUIRED FOR DELIVERY OF GOODS PURCHASED OUTSIDE CITY

Except as may be provided otherwise by this Chapter, 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 such person at his/her regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this Chapter. (CC 1987 §54.080)

SECTION 605.090: FEES FOR OPERATING VEHICLE ON PUBLIC HIGHWAYS SUPPLEMENTAL TO FEES REQUIRED BY OTHER PROVISIONS

Any general or special license fees for any kind of vehicle for the privilege of operating such vehicle upon the public highways shall be in addition to any other licenses, permits, insignias or fees for such vehicles otherwise required by City, State or Federal law. (CC 1987 §54.090)

SECTION 605.100: SCHEDULE OF FEES

The following trades, professions, occupations, vocations or businesses shall not be operated, practiced, engaged in or otherwise conducted in the City, unless and until the owner, operator, manager, proprietor or practitioner thereof shall have applied for and obtained a license to operate, practice, engage in or otherwise conduct same from the City License Officer and shall have paid to the City the license tax hereinafter set forth, such license and tax therefor to be issued and paid on an annual basis, except where otherwise herein specifically provided:

| | |
|-------------------------|-------|
| Provide a service | 5.25 |
| Retail sales | 15.25 |

(CC 1987 §54.100)

SECTION 605.110: CITY LICENSE OFFICER, CITY CLERK DESIGNATED—DUTIES, GENERALLY

The City Clerk shall be the City License Officer and shall issue in the name of the City all licenses and permits required by this Chapter to all qualified applicants therefor, when all required taxes and fees have been paid, in accordance with the provisions of this Chapter. (CC 1987 §54.110)

SECTION 605.120: CITY LICENSE OFFICER—PROMULGATION OF RULES AND REGULATIONS—ADDITIONAL DUTIES

The City License Officer shall adopt and promulgate such rules and regulations as he/she may consider desirable for the administration of this Chapter. When approved by the Mayor, such rules and regulations shall be placed on file in the office of the City License Officer for inspection and use by the public, and the provisions thereof shall be enforced by him/her. The City License Officer shall investigate and determine the eligibility of any applicant for a license or a renewal, examine the books and records of any applicant when reasonably necessary to the administration or enforcement, and notify any applicant of the acceptance or rejection of his/her application and, upon refusal, state in writing the reasons therefor, and deliver such notice to the applicant. (CC 1987 §54.120)

SECTION 605.130: TAXES AND FEES TO BE PAID TO CITY COLLECTOR—ISSUANCE OF RECEIPT

Taxes and fees required by this Chapter to be paid by any person shall be payable to the City Collector, who shall issue a proper receipt to each person making any such payment. (CC 1987 §54.130)

SECTION 605.140: APPLICATION—ORIGINAL LICENSE

Every person required to have a license shall submit an application to the City License Officer by a written statement upon forms provided by the City License Officer, which shall disclose all information which the City License Officer shall find to be reasonably necessary to the fair administration of this Chapter, and which shall be accompanied by a receipt from the City Collector for the full amount of the fees chargeable for such license, which receipt shall not be construed as approval for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to this Chapter.

SECTION 605.150: APPLICATION—RENEWAL

Any applicant for the renewal of a license under this Chapter shall submit an application therefor to the City License Officer upon forms provided by such Officer, which shall include such information which the License Officer shall find to be reasonably necessary to the fair administration of this Chapter and information as to the conduct and operation of his/her business during the preceding licensing period. (CC 1987 §54.150)

SECTION 605.160: APPLICATION—REFUNDS UPON DISAPPROVAL—ENGAGING IN BUSINESS DURING APPEAL, PROHIBITED

The City License Officer shall, upon disapproving any application, direct the City Collector to refund all money paid in advance; provided, the applicant is not otherwise indebted to the City. When the issuance of license is refused and any action or proceeding is brought by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused. (CC 1987 §54.160)

SECTION 605.170: CONFIDENTIALITY OF INFORMATION

The City License Officer, and all other City Officers and Officials who may be officially concerned with administering and enforcing this Chapter, shall keep all information furnished or secured under the authority of this Chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known, except to the persons charged with the administration of this Chapter; provided, that this Section shall not prohibit any City Officer from testifying as to such information in compliance with a subpoena issued from a Court of competent jurisdiction or from the Board of Aldermen in any proceeding before it. (CC 1987 §54.170)

SECTION 605.180: INSPECTION OF BUSINESS, BOOKS, ETC.—OPERATION OF BUSINESS UPON REVOCATION, EXPIRATION, ETC.

Each licensee under this Chapter shall permit all reasonable inspections of his/her business and examination of his/her books by the License Officer and refrain from operating the licensed business after expiration of his/her license and during any period his/her license may be revoked or suspended. (CC 1987 §54.180)

SECTION 605.190: POSTING OR DISPLAY OF LICENSE

Every licensee under this Chapter shall post and maintain his/her license upon the premises in a place where it may be seen at all times. Every licensee under this Chapter who does not have a licensed business premises shall carry his/her license on his/her person and shall display it to City Officers having authority to enforce this Chapter and to persons with whom he/she transacts business at their request. (CC 1987 §54.190)

SECTION 605.200: REGISTRATION OF PERSONS ENGAGING IN INTERSTATE COMMERCE

- A. Any canvasser, solicitor or other person who may be exempt from the application of license taxes or fees imposed by this Chapter, by reason of engaging in interstate commerce, shall, before engaging in any such canvassing or solicitation within this City, register with the City License Officer on a form provided by such Officer. Each registrant under this Section shall on such form provide the City License Officer with:

A.1. His name and description.

A.2. His permanent home address and full local address.

- A.3. A brief description of the nature of the business and goods to be sold, whether or not money is to be collected by the registrant prior to delivery or shipment of the goods sold.
 - A.4. The name and address of his/her employer, together with credentials establishing the exact relationship.
 - A.5. The length of time for which the registrant proposed to do business within the City.
 - A.6. A photograph of the registrant taken within six (6) months prior to the date of the filing of the registration form, which picture shall show the head and shoulders of the registrant in a clear and distinguishing manner.
 - A.7. A statement by the registrant whether he/she has been convicted of any crime, misdemeanor or violation of any municipal law or ordinance, the nature of the offense and the punishment or penalty assessed therefor.
 - A.8. The fingerprints of the registrant, who will certify as to his/her good character and responsibility, or, in lieu thereof, such other available evidence as to the registrant's good character and business responsibility as will enable an investigation and proper evaluation of such character and business responsibility.
 - A.9. A statement by the registrant that he/she is free of any contagious, infectious or communicable diseases.
- B. Each registrant hereunder shall pay at the time of registration the sum of ten dollars (\$10.00) to cover the costs of the registration and the investigation of the facts stated in the registration form. The City License Officer shall refer such registration to the Chief of Police, who shall cause such investigation to be made. Upon arrival by the Chief of Police, the License Officer shall issue to the registrant a registration certificate, which the registrant shall keep on his/her person at all times and on demand display to any officer of the City and any citizen who so requests it. Any registration certificate hereunder may be revoked by the City License Officer for fraud or misrepresentation or false statements. (CC 1987 §54.200)

SECTION 605.210: ENFORCEMENT OF CHAPTER—RIGHT OF ENTRY OF LICENSE OFFICER, ETC.

For the purposes of enforcing this Chapter, the City License Officer, the City Administrator and the City Police shall have authority to inspect and examine businesses to enforce compliance. Such persons authorized to inspect licenses shall have the authority to enter, with or without a search warrant, at all reasonable times. (CC 1987 §54.210)

ARTICLE II. MISCELLANEOUS BUSINESS PROVISIONS

SECTION 605.220: YARD SALES

A. *Definition.* For purposes of this Section the term "*yard sale*" shall mean any type of private sale of personal goods held at a residence.

- B. *Duration.* Any yard sale conducted pursuant to this Section shall last for no longer than seventy-two (72) hours.
- C. It shall be unlawful to conduct more than two (2) yard sales per residence per year.
- D. Any person conducting a yard sale shall register at City Hall no less than three (3) days prior to the yard sale to receive the proper permit.
- E. Advertisement of the yard sale by temporary sign must be done according to the regulations set out in Chapter 405.
- F. The yearly "City Wide Yard Sale" sponsored by the Chamber of Commerce shall be excluded from the two (2) allowed per year.
- G. Anyone not complying with the regulations set out in this Section shall be subject to citation and fine in Municipal Court. (Ord. No. 397 §§1-7, 4-27-95)

CHAPTER 610: JUNK YARDS

SECTION 610.010: DEFINITIONS

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

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

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

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

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

JUNK YARD: A yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity. (CC 1987 §51.010)

SECTION 610.020: LICENSE REQUIRED

It shall be unlawful for any person to act as a junk dealer or itinerant junk dealer in the City of Gerald, whether personally, by agents or employees, singly, or along with some other business or enterprise, without first having obtained a license therefor from the City Clerk in accordance with the provisions of this Chapter. (CC 1987 §51.020)

SECTION 610.030: APPLICATION

- A. An applicant for license under this Chapter shall file with the City Clerk a written application upon forms provided by the City Clerk, and pay a fee as hereinafter prescribed.
- B. Said application shall include the junk dealer or itinerant junk dealer's name, residence address, and telephone number of applicant; the exact address or location of the place where the business is or is proposed to be carried on; and such other information as the City Clerk may reasonably require. (CC 1987 §51.030)

SECTION 610.040: LICENSE FEE

The fees for licenses required under this Chapter shall be as established from time to time by ordinance of the Board of Aldermen and on file in the office of the City Clerk. (CC 1987 §51.040)

SECTION 610.050: INVESTIGATION—APPROVAL AND ISSUANCE OF LICENSE

- A. Upon receipt of an application for a junk dealer's license as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character.
- B. If the findings of said investigation are favorable to the applicant, the City Clerk shall within thirty (30) days after the filing of the application and payment of the fee, issue a junk dealer's license to the applicant. (CC 1987 §51.050)

SECTION 610.060: LICENSE NOT TRANSFERABLE

No license issued under this Chapter shall be transferred or assigned or used in any way by any person other than the one to whom it was issued. (CC 1987 §51.060)

SECTION 610.070: DURATION—PRORATION AND REFUND OF FEES

All licenses issued under the provisions of this Chapter shall expire on the thirtieth (30th) day of June following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued. (CC 1987 §51.070)

SECTION 610.080: GENERAL OPERATING REQUIREMENTS

The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:

- .1. The license issued pursuant to this Chapter shall be plainly displayed on the business premises.
- .2. The junk yard, together with things kept therein, shall at all times be maintained in a sanitary condition.
- .3. No space not covered by the license shall be used in the licensed business.
- .4. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
- .5. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four (4) inches.

- .6. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as described herein and is in use in the licensed business.

- .7. No junk shall be allowed to rest upon or protrude over any public property, street, alley, walkway, or curb or become scattered or blown off the business premises.
- .8. Junk shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such junk, for firefighting purposes.
- .9. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
- .10. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
- .11. No junk or other materials shall be burned on the premises in any incinerator not meeting the approval of the Chief of the Fire Department, which approval shall not be unreasonably denied.
- .12. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 P.M. and 7:00 A.M.
- .13. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid vertical wall or fence of a minimum height of eight (8) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. (CC 1987 §51.080)

SECTION 610.090: NON-CONFORMING JUNK YARDS

All junk yards in violation of this Chapter are hereby declared to be public nuisances. However, to allow flexibility and prevent undue hardship, the Board of Aldermen may consent to a schedule by which non-conforming junk yards existing as of March 1, 1986, are brought in compliance within two (2) years, with one-quarter ($\frac{1}{4}$) of the work required for compliance done each six (6) months. (CC 1987 §51.090)

CHAPTER 615: PEDDLERS AND SOLICITORS

SECTION 615.010: PURPOSE

This Chapter is designed to:

- .1. Prevent undue annoyance of City residents by peddlers and solicitors;
- .2. Maximize the First Amendment rights of peddlers and solicitors, as well as the rights of City residents to be secure in their homes;
- .3. Reduce the opportunity for crime within the City;
- .4. Attempt to provide some assurance to residents of the City that peddlers and solicitors are not burglars and criminals in disguise; and
- .5. Attempt to increase the physical safety of peddlers and solicitors who go from place to place within the City. (CC 1987 §52.010)

SECTION 615.020: PEDDLERS AND SOLICITORS, DEFINED

- A. A "*peddler*" is one who, for profit to himself/herself or his/her principal, sells any goods or service, or seeks a donation for any cause of a profit-making or commercial character.
- B. A "*solicitor*" is one who solicits for a charitable, political or religious purpose, even if incidental for such purpose there is the sale of some goods or service. (CC 1987 §52.020)

SECTION 615.030: PRESUMPTION

It shall be presumed that an individual is a peddler rather than a solicitor. This presumption may be overcome by:

- .1. A showing that donations to the organization for which one wishes to solicit is exempt from Federal income taxation under Section 503 of the Internal Revenue Code.
- .2. A showing that the organization for which one wishes to solicit is an organization whose primary purpose is to influence public policy. (CC 1987 §52.030)

SECTION 615.040: IDENTIFICATION CARD REQUIRED

No person shall engage in any act as a peddler or solicitor without first obtaining an identification card in accordance with the provisions herein. Any person who does so shall be guilty of a misdemeanor. (CC 1987 §52.040)

SECTION 615.050: FEE

- A. Any person desiring a peddlers identification card shall pay a fee of twenty-five dollars (\$25.00) per card.
- B. There shall be no fee for a solicitors identification card. (CC 1987 §52.050)

SECTION 615.060: APPLICATION FOR CARD

Any person or organization (formal or informal) may apply for one (1) or more identification cards by completing an application form at the office of the City Clerk. (CC 1987 §52.060)

SECTION 615.070: CONTENTS OF APPLICATION

The applicant shall provide the following information:

- .1. Name of applicant.
- .2. The number of identification cards required.
- .3. A statement as to the type of cards requested.
- .4. If one (1) or more solicitors cards is requested, information required to overcome the presumption of Section 615.030 of this Chapter.
- .5. If one (1) or more peddlers cards is requested, the fee for each card as provided in Section 615.030 of this Chapter.
- .6. The name and physical description (or in lieu thereof a photograph) of each person for which a card is requested. (The Chief of Police is directed to obtain an instant photographic camera, and to offer to any applicant to take photographs for which a reasonable fee not to exceed ten dollars (\$10.00) shall be charged. Instead of providing the physical description or photograph, the applicant may exhibit a valid drivers license or similar identification for each person for whom a card is requested, and a photocopy of said identification shall be attached to said application.)
- .7. The permanent and (if any) local address of the applicant.
- .8. The permanent and (if any) local addresses of each person for whom a card is requested.
- .9. A brief description of the proposed activity subject to this identification card requirement.
- .10. A statement as to whether or not the applicant has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.

- .11. A statement as to each person for whom a card is requested as to whether that individual has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.
- .12. The motor vehicle make, model, year, color and registration number of any vehicle which shall be used in the proposed activity.

- .13. The permanent name and address of the organization or person (with respect to a solicitors card) who can provide a prospective donor with more information about the charity for which funds are solicited, and from whom information can be obtained as to the disposition of all funds collected, or (with respect to a peddler's card) of the individual organization to whom complaints can be made for defective merchandise, who is responsible for any breach of warranty, and from whom additional merchandise can be ordered.
- .14. Name and address of person or organization which is intended to receive donations or profits.
- .15. Any other information the applicant wishes to provide. (CC 1987 §52.070)

SECTION 615.080: SPECIAL REQUIREMENTS FOR PEDDLERS CARD

No person shall be issued a peddlers identification card unless, in addition to the requirements of the preceding Section:

- .1. He/she demonstrates that he/she (or in the case of an agent, his/her principal) has a valid Retail Sales License issued by the State Director of Revenue as required by Section 144.083, RSMo.
- .2. He/she, or his/her principal, deposits with the City Clerk a bond in the amount of one hundred dollars (\$100.00) (cash or surety) per card to secure collection and payment to the State Department of Revenue all City sales taxes due and payable by reason of sales made within this City. Said bond shall be forfeited to the City, if applicant does not (within ninety (90) days of the expiration or surrender of his/her peddlers card) demonstrate by affidavit or otherwise that said sales taxes have been paid.
- .3. He/she demonstrates either that:
 - .3.a. He/she is a licensed itinerant vendor within the meaning of Section 150.380, RSMo., or
 - .3.b. He/she is exempt from said requirement.
- .4. He/she demonstrates either that:
 - .4.a. He/she has a "peddler" license from the County and State as required by Section 150.470, RSMo., or
 - .4.b. He/she is exempt from said requirement. (CC 1987 §52.080)

SECTION 615.090: ISSUANCE OF IDENTIFICATION CARD

Three (3) working days after the application, or sooner if reasonably possible, the requested identification cards shall be issued, unless:

- .1. The application is incomplete (in which case the City Clerk will reject the application at the time of its tender or within fifteen (15) minutes thereafter).
- .2. The required fee (if any) has not been paid.
- .3. The applicant has been convicted of a felony.

- .4. With respect to a particular card, if the individual for whom a card is requested has been convicted of a felony.
- .5. If any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.
- .6. If the applicant, or if the particular individual for whom an identification card is requested, has had a previous identification card revoked.
- .7. If the applicant, or if a particular individual for whom an identification is requested, has made any false statement regarding the peddling of merchandise or the solicitation of persons under this Chapter of any other municipality. (CC 1987 §52.090)

SECTION 615.100: INVESTIGATION

During the period of time following the application for issuance of one (1) or more identification cards and its issuance, the Chief of Police shall make diligent investigation, as to him/her seems necessary, to determine that the applicant is entitled to the identification as hereinabove stated. The Chief of Police shall cooperate with the applicant, shall inform the applicant of the progress of his/her investigation, and shall use due diligence in conducting his/her investigation. In all cases, the Chief of Police shall work as expeditiously as is reasonably possible to complete his/her investigation in a minimum amount of time. If the Chief of Police has not completed his/her investigation within the working days that is provided in Section 615.080, the identification will nonetheless be issued. (CC 1987 §52.100)

SECTION 615.110: DENIAL

If the City Clerk denies the identification card to one (1) or more persons he/she shall prepare promptly (and in no event later than two (2) working days after the denial), a written report of the reason for his/her denial which shall immediately be made available to the applicant. The applicant shall be entitled to correct in writing any deficiencies so noted in the report, which corrections or changes when filed shall be treated as a new application. (CC 1987 §52.110)

SECTION 615.120: APPLICANT'S RIGHTS UPON DENIAL OF AN IDENTIFICATION CARD

If an identification card is denied to an applicant, the applicant shall have the option of an immediate hearing in front of any of three (3) tribunals at the applicant's option. At such a hearing the City Attorney on behalf of the City Clerk shall be required to demonstrate by the preponderance of the evidence that the applicant is not entitled to an identification card under this Chapter. The applicant may choose to take his/her case before any of the following tribunals:

- .1. The Board of Aldermen, at its next regular meeting, or if the next regular meeting is more than ten (10) days from the denial of the identification card, at a special meeting to be held within that ten (10) day period.

- .2. Before the Municipal Court of the City, provided that such a hearing will be scheduled within ten (10) days of the request; or

- .3. Before the Circuit Court of Franklin County within the regularly scheduled procedures of the Circuit Court. (CC 1987 §52.120)

SECTION 615.130: HEARING ON APPLICANT'S DENIAL OF IDENTIFICATION CARD, PROCEDURE

If the applicant requests a hearing under Section 615.120(1) and (2), the said hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri, and review from the decision shall be had to the Circuit Court of Franklin County, Missouri on the record. Should applicant decide to forego the administrative hearings, the remedy will be an injunction or declaratory judgment action against the City. (CC 1987 §52.130)

SECTION 615.140: DISPLAY OF IDENTIFICATION CARD

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the peddler or solicitor, so as to be reasonably visible to any person who might be approached by said peddler or solicitor. (CC 1987 §52.140)

SECTION 615.150: VALIDITY OF IDENTIFICATION CARD

An identification card should be valid within the meaning of this Chapter for a period of three (3) months from its date of issuance; thereafter, it shall expire. An applicant with an expired identification card shall be considered as having no identification card whatsoever and will be required to apply for a new card if he/she wishes to peddle or solicit within the City. (CC 1987 §52.150)

SECTION 615.160: REVOCATION OF CARD

Any identification card granted hereunder may be revoked by the Municipal Court after the filing of an information by the Prosecuting Attorney and a hearing thereon for any of the following causes:

- .1. Any violation of this Chapter by applicant or the person for whom the particular card was issued.
- .2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
- .3. Conviction of a felony.
- .4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public. (CC 1987 §52.160)

SECTION 615.170: GENERAL PROHIBITIONS

No person having a solicitor or peddler card shall:

1. Enter or remain on private property where he/she has reason to believe that the residents thereof have indicated the solicitor or peddler is not welcome.

- .2. Make an uninvited entry into a resident's home.
- .3. Refuse to discontinue his/her message when requested by a hearer to do so, when on private property occupied by the hearer.
- .4. Enter upon any private property, knowing or having reason to believe that the owner or occupants do not desire to receive messages from any solicitor or peddler, either by a posted sign or otherwise. (CC 1987 §52.170)

SECTION 615.180: CITY RESPONSIBILITIES

Any resident of the City may list his/her property with the City Clerk, and direct that his/her property is not to be entered by any solicitor or peddler. This list shall be available for public inspection. Upon the issuance of any solicitor or peddler's license, a copy of the list shall be provided with each card. No card holder may enter the private property nor contact any person so listed. (Such listing shall continue for two (2) years, unless listee requests sooner removal, at which time the listing shall be removed, unless the listee shall request the same be continued an additional two (2) years.) (CC 1987 §52.180)

SECTION 615.190: TIME LIMITS

No person shall solicit or peddle within the corporate limits of the City except within the time limits prescribed in this Section:

- .1. From 9:00 A.M. until 9:00 P.M. Monday through Friday, and from 10:00 A.M. until 10:00 P.M. on Saturday and Sunday.
- .2. Notwithstanding Subparagraph (1) above, no person shall peddle or solicit at any time after sunset on any day unless:
 - .2.a. He/she is dressed in light colored or reflective clothing.
 - .2.b. He/she has notified the Chief of Police of his/her intention to solicit after dark.
(CC 1987 §52.190)

SECTION 615.200: SPECIAL RESTRICTIONS ON PEDDLERS

No person having a peddlers identification card shall peddle or solicit merchandise:

- .1. At any place except within the business district of the City as defined by its zoning ordinances, or within twenty-five (25) feet to any non-conforming commercial establishment.
- .2. Outside of the area provided in Subparagraph (1) above unless he/she has a specific oral or written invitation to approach the dwelling.

This Chapter shall not apply to any person who solicits individuals on real estate in which the person or his/her principal has an ownership or leasehold interest. (CC 1987 §52.200)

CHAPTER 620: DECEPTIVE TRADE PRACTICES

SECTION 620.010: DEFINITIONS

As used in this Chapter, the following words and terms shall mean:

ADVERTISEMENT: Includes the attempt by publication, dissemination, solicitation or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

MERCHANDISE: Includes any objects, wares, goods, commodities, intangibles, real estate or services.

SALE: Any sale, lease, offer for sale or lease, or attempt to sell or lease merchandise for cash or on credit. (CC 1987 §55.010)

SECTION 620.020: UNLAWFUL PRACTICES, PENALTY–EXCEPTIONS

- A. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in Section 407.453, RSMo., in or from the City, is declared to be an unlawful practice. The use by any person, in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in Section 407.453, RSMo., in or from the City of the fact that the Attorney General of the State of Missouri has approved any filing required by Chapter 407, RSMo., as the approval, sanction or endorsement of any activity, project or action of such person, is declared to be an unlawful practice. Any act, use or employment declared unlawful by this Subsection violates this Subsection whether committed before, during or after the sale, advertisement or solicitation.
- B. Nothing contained in this Section shall apply to:
 - B.1. The owner or publisher of any newspaper, magazine, publication or printed matter wherein such advertisement appears, or the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser; or
 - B.2. Any institution or company that is under the direction and supervision of the Director of the Department of Insurance, or Director of the Division of Finance, unless the Directors of such divisions specifically authorize the Attorney General to implement the powers of Chapter 407, RSMo., or such powers are provided to either the Attorney General or a private citizen by Statute.

SECTION 620.030: DECEPTIVE BUSINESS PRACTICES

A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession, he/she recklessly:

- .1. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity.
- .2. Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service.
- .3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he/she furnishes the weight or measure.
- .4. Sells, offers or exposes for sale adulterated, or mislabeled commodities.
- .5. Makes a false or misleading written statement for the purpose of obtaining property or credit. (CC 1987 §55.030)

SECTION 620.040: DECEPTIVE BUSINESS PRACTICES—DEFINITIONS

In the construction of the preceding Section the following words shall have the meanings set out herein:

ADULTERATED: Varying from the standard of composition or quality prescribed by Statute or lawfully promulgated administrative regulations of the United States of America or of this State lawfully filed, or if none, as set by commercial usage.

MISLABELED: Varying from the standard of truth or disclosure in labeling prescribed by Statute or lawfully promulgated administrative regulations of the United States of America or of this State lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity. (CC 1987 §55.040)

SECTION 620.050: ODOMETER FRAUD, SECOND DEGREE

- A. A person commits the offense of odometer fraud in the second degree if he, with the intent to defraud disconnects, resets, or alters the odometer of any motor vehicle with the intent to change the number of miles indicated thereon.
- B. The disconnection, resetting, or altering of any odometer while in the possession of the person shall be prima facie evidence of intent to defraud.

SECTION 620.060: FALSE ADVERTISING

A person commits the offense of false advertising if, in connection with the promotion of the sale of, or to increase the consumption of, property and services, he/she recklessly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons. (CC 1987 §55.060)

SECTION 620.070: BAIT ADVERTISING

A person commits the offense of bait advertising if he/she advertises in any manner the sale of property or services with the purpose not to sell or provide the property or services:

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- .1. At the price which he/she offered them.
- .2. In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement.
- .3. At all. (CC 1987 §55.070)

SECTION 620.080: INCLUDED OFFENSES

The offense described in Sections 620.030 through 620.070 shall be included offenses in the unlawful practices prohibited by Section 620.020. No person shall be convicted of a violation of both Section 620.020 and of one or more of Sections 620.030 through 620.070, as a result of the same act by him/her. (CC 1987 §55.080)

CHAPTER 625: UTILITIES BUSINESSES

SECTION 625.010: ELECTRIC COMPANIES

- A. The word "*person*" when used in this Section, shall include any individual, firm, co-partnership, joint partnership, joint adventure, association, corporation, estate, business trust, trustee, receiver, syndicate or any other group or combination acting as a unit, in the plural as well as in the singular number.
- B. Every person now or hereafter engaged in the business of supplying electricity for compensation for any purpose in the City of Gerald shall pay to the City of Gerald as a license tax a sum equal to five percent (5%) of the gross revenue derived from such business, exclusive of sales to municipality and revenue from industrial customers which are billed on the filed industrial rates.

Industrial Customer: Any customer receiving electric energy only in the form of sixty (60) cycle, three (3) phase alternating current, at a standard primary voltage of not less than two thousand four hundred (2,400) volts. Industrial customer shall provide and maintain upon its premises and at its cost any necessary converting, transforming, regulating, and other equipment, beyond the point or points of delivery.

- C. It is hereby made the duty of every person engaged in the business described in the foregoing Sections hereof, to file with the Clerk of the City of Gerald on the fifteenth (15th) day of January, on the fifteenth (15th) day of April, on the fifteenth (15th) day of July, and on the fifteenth (15th) day of October of each year, a sworn statement of the gross receipts of such persons from such business for the three (3) calendar months or parts thereof after this Section takes effect preceding the filing of such statement. The Clerk of the City of Gerald, or Deputy or authorized agent, shall be and is hereby authorized to investigate the correctness and accuracy of the said statement required and for that purpose shall have access at all reasonable times and business hours, to inspect the books, documents, papers and records of any such person so making such statement, in order to ascertain the accuracy thereof.
- D. Every person now or hereafter engaged in the business described in Subsection (B) hereof, shall pay to the Collector of the City of Gerald on the fifteenth (15th) day of January, on the fifteenth (15th) day of April, on the fifteenth (15th) day of July, and on the fifteenth (15th) day of October of each that this Section is in force and effect an amount equal to five percent (5%) of said person's gross receipts from the said business herein named for the preceding three (3) calendar months, or parts thereof, that this Section is in force and effect.
- E. The tax herein required to be paid shall be in lieu of any other occupation tax, required of any person engaged in the business enumerated in Subsection (B) hereof, but nothing herein contained shall be so construed as to exempt any such person from the payment to the City of Gerald of the tax or taxes, which the City of Gerald levies upon the real or personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than electricity, nor shall the tax herein required exempt any such person from the payment of any other tax, which may be lawfully required, other than an occupation tax on the business described in Subsection (B). (Ord. No. 99 §§1-5, 10-14-65; Ord. No. 272 §1, 4-10-86; Ord. No. 301 §§1-5, 2-9-89)

SECTION 625.020: GAS, TELEPHONE OR WATER UTILITIES

- A. The word "*person*", when used in this Section shall include any firm, individual, partnership, association, corporation or any other group acting as a unit, in the plural as well as the singular number.
- B. Every person now or hereafter engaged in the business of supplying gas, telephone service or water for compensation for any purpose in the City of Gerald, Missouri, and every manufacturer of gas for compensation for any purpose in the City of Gerald, shall pay to the said City of Gerald, as a license tax, a sum equal to five percent (5%) of the gross receipts from such business.
- C. It is hereby made the duty of every person engaged in any of the businesses described in the foregoing Sections hereof to file with the Clerk of the City of Gerald on the fifteenth (15th) day of April and the fifteenth (15th) day of October, each year, a sworn statement of the gross receipts of, such person, from such business for the six (6) calendar months or parts thereof, after this Section takes effect, preceding the filing of such statement. The Clerk of the City of Gerald, Deputy or authorized agent, shall be and is hereby authorized to investigate the correctness and accuracy of the said statement required and for that purpose shall have access, at all reasonable times and business hours, to inspect the books, documents, papers and records of any such person so making such statement, in order to ascertain the accuracy thereof.
- D. Every person now or hereafter engaged in any of the businesses described in Subsection (B) hereof shall pay to the City Collector of the City of Gerald on the fifteenth (15th) day of October, 1957, and on the fifteenth (15th) day of April and October of each year thereafter an amount equal to five percent (5%) of said persons gross receipts from said business for the preceding six (6) calendar months.
- E. The tax herein required to be paid shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in Subsection (B) hereof, but nothing herein contained shall be construed as to exempt any such person from the payment to the City of Gerald of the tax which said City of Gerald levies upon the real and personal property belonging to such person, nor the tax required of merchants or manufacturers for the sale of anything other than gas, telephone service or water, nor shall the tax herein required exempt any such person from the payment of any other tax which may be lawfully required other than an occupation tax on any business described in Subsection (B).
- F. Any person engaged in any of the businesses described in Subsection (B), who shall violate any of the provisions of this Section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each days violation of this Section shall constitute a separate offense.
(Ord. No. 50(B) §§1-7, 5-14-57)

Editor's Note—Ord. no. 590 was passed in compliance with HB209 of the 2006 Missouri legislative session. Provisions contained in HB209 were subsequently deemed unconstitutional by the Missouri Supreme Court on August 8, 2006 in City of Springfield, Appellant V Sprint Spectrum, L.P., Respondent Case No. SC87238. Consequently, this ordinance was not codified.