

Chapter 12

LICENSES

ARTICLE I

In General

Section 12-1. Peddlers. [Ord. No. 616 §1; Ord. No. 1598 §1, 3-5-2002; Ord. No. 1828 §§1-2, 4-19-2005; Ord. No. 2135 §1, 9-7-2010; Ord. No. 2232 §1, 7-17-2012]

- (a) A peddler shall include any person who shall deal in the sale of goods, wares, merchandise or services by outcry or by going about from place to place, house to house, door to door, on foot or by conveyance, or by stopping or standing in any street, alley or place to offer or sell such goods, wares, merchandise or services.
- (b) It shall be unlawful for any person to engage in the business of a peddler within the City, except as follows:
 - (1) Any farmer or producer of agricultural and horticultural products for the sale of produce raised by said farmer when sold from a vehicle or by the employees of such producer.
 - (2) A recognized Eureka-based civic, fraternal, charitable and religious organization.
 - (3) *Mobile ice cream sales.* One may engage in the mobile sales of ice cream and related frozen confection products from a vehicle provided that said vehicle remains on roadways and safely stops along such roadways only for the length of time required to engage in sales transactions.
- (c) Those individuals or entities authorized to engage in peddler activity may operate a temporary sign of up to thirty-two (32) square feet in size, subject to temporary signage provisions contained in Chapter 19A of the Municipal Code.

Section 12-1.1. Operation of Pawnshops and Check-Cashing Establishments — Prohibited. [Ord. No. 1483 §§1-2, 10-3-2000]

- (a) The Municipal Code of the City of Eureka is hereby amended to prohibit the operation of pawnshops and check-cashing establishments within the City of Eureka.
- (b) Any pawnshops and check-cashing establishments legally operating in the City as of the effective date of this Section shall be legal non-conforming uses and subject to regulations applicable to same.

ARTICLE II

Utilities

Division 1

Electrical

Section 12-2. License Tax Levied. [Ord. No. 761, §1.; Ord. No. 776 §1]

Every person engaged in the business of supplying electricity or service connected therewith for compensation for any purpose in the city, and every manufacturing corporation now or hereafter engaged in the manufacture of electricity for compensation for any purpose in the city, shall pay to the city as a license tax, a sum equal to five percent of the gross receipts received from such business within the city.

Section 12-3. Filing and Investigation of Statements of Gross Receipts. [Ord. No. 35, §3]

It is hereby made the duty of every person engaged in any business described in this division to file with the city clerk, on January 15, 1956, a sworn statement of the gross receipts of such person received within the city from July 15, 1955, to January 15, 1956, and thereafter a similar statement on July 15 and January 15 of each year of such receipts for the six calendar months preceding the filing of such statement. The city clerk or his duly authorized deputy is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during business hours to examine the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

Section 12-4. Payment of Tax. [Ord. No. 35, §4]

Every person engaged in any of the businesses described in this division shall pay to the city collector on January 25, 1956, and on July 25, 1956, and on the 25th day of January and July of each year thereafter an amount equal to five percent of the person's gross receipts received from such business within the city for the preceding six calendar months.

Section 12-5. Effect of Division on Other Taxes. [Ord. No. 35, §5]

The tax required to be paid in this division shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in this division, but nothing herein contained shall be so construed as to exempt any such person from the payment to the city of the tax which the city levies upon the real and 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 any occupation tax on any of the businesses described in this division.

Division 2

Telephone or Telegraph Service ¹

¹. Editor's Note — Ord. no. 1907 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

Section 12-6. License Tax Levied. [Ord. No. 38, §1; Ord. No. 338, §§1-2]

Every person engaged in the business of supplying or furnishing exchange telephone service or telegraph service in the city shall pay to the city as a license or occupational tax, five percent of the gross receipts derived from such business within the city.

The word "person" as used in this section and in sections 12-7, 12-8, 12-9 and 12-10 shall be construed to include every person, firm, company or corporation now or hereafter engaged in the business of furnishing exchange telephone service in the city.

The term "exchange telephone service" shall be construed to include all of the following:

- (a) Monthly charges:
 - (1) For flat or measured rate exchange service.
 - (2) For station equipment used in exchange service (including data sets, teletypewriters and other equipment used in data-phone service.)
 - (3) For tie line terminating equipment.
 - (4) For mileage in connection with exchange services within the local service area.
 - (5) For enterprise service.
 - (6) For nonpublished and nonlisted services.
 - (7) For three hundred series key systems.
 - (8) For connection of customer provided data or voice transmitting and receiving equipment.
 - (9) For connecting arrangements.
 - (10) For supplemental items of service, e.g., touch-tone trimline, princess, bell chimes, etc.
 - (11) For subscribers' station monthly recurring revenues not provided for in preceding.
- (b) Message charges, including revenues from local telephone messages charged for on a measured rate basis.
- (c) Nonrecurring charges, including:
 - (1) Service connection charges, moves and changes.
 - (2) Installation and move charges for auxiliary equipment associated with exchange service.
 - (3) Charges for termination or restoration of service.

- (4) One-time charges for supplemental items of equipment, e.g., color, princess.
- (5) Maintenance of service charge.
- (6) Initial installation charges, including connecting arrangements.
- (d) Public telephone service including all exchange service revenue from public telephone service.
- (e) Local private line services, including interconnection of customer-provided equipment to the private line network when the private line channels involved are with the local service area.

Section 12-7. Filing Statement of Gross Receipts; Exemption of Receipts From Governmental Consumers. [Ord. No. 38, §2; Ord. No. 41]

Every person engaged in the business set forth in this division is hereby required to file with the city clerk on or before March 1, 1956, a sworn statement showing the gross receipts derived from the transaction of such business in the city from September 6, 1955 through December 31, 1955, and a similar report on or before September 1, 1956, for the preceding six months period ending June 30, 1956, on or before March 1, 1957, for the preceding six months period ending December 31, 1956, and a similar report on March 1 and September 1 of each successive year thereafter, and at the same time pay to the collector of the city the tax levied by this division; provided, that it shall not be required to include in such statement nor calculate the tax upon any receipts derived from any such services furnished the city or any other governmental unit in the city.

Section 12-8. Credit for Tax to be Given on Payments Made to City Under Contract. [Ord. No. 38, §3]

Any person engaged in the business set forth in this division, making any payment to the city under any ordinance or contract pursuant thereto heretofore enacted shall receive credit for such payments on the tax set forth in this division.

Section 12-9. Investigation of Accuracy of Statement of Gross Receipts. [Ord. No. 38, §4]

The city collector or his deputies shall investigate the correctness and accuracy of the statement of gross receipts filed under this division and for that purpose shall have access at all reasonable business hours to the books, documents, papers and records of any person making such return in order to ascertain the accuracy thereof.

Section 12-10. Division Not to Affect Property Taxes. [Ord. No. 38, §5]

Nothing contained in this division shall be so construed as to exempt any person to which this division is applicable from the payment to the city of the tax which the city levies upon the real or personal property belonging to any such person.

Division 3
Gas

Subdivision I Laclede Gas Company

Section 12-11. License Tax Levied. [Ord. No. 172, §2]

The Laclede Gas Company shall pay to the city, at least once every year, a sum equal to five percent of the gross receipts from its operation in the city as and for a license tax.

Subdivision II Underground Gas Distribution

Section 12-12. Definitions. [Ord. No. 274, §1]

For the purposes of this subdivision, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUSINESS OF SUPPLYING GAS OR GAS SERVICE — The supplying of gas or gas service through an underground pipe distribution system; nothing in this subdivision shall be construed as imposing a tax on persons commonly called bottled gas dealers who supply propane and butane gas in steel tanks to customers, such bottled gas dealers being specifically exempted from the tax levied by this subdivision; except, that section 12-11 passed and approved on November 17, 1964, and as amended, shall remain in full force and effect.

GROSS RECEIPTS — The aggregate amount of all sales and charges from the business of supplying gas or gas service made by a person in the city during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

PERSONS — Any individual, firm, copartnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit, in the plural as well as the singular number.

Section 12-13. License Tax Levied. [Ord. No. 274 §2]

Every person now or hereafter engaged in the business of supplying gas or gas service for compensation for any purpose in the City shall pay to the City, as a license tax, a sum equal to five percent (5%) of the gross receipts received from such business within the City.

Section 12-14. Statement of Gross Receipts to be Filed. [Ord. No. 274 §3]

It is hereby made the duty of every person engaged in any business described in the foregoing Section hereof, to file with the City Clerk on the last day of January, 1970, a sworn statement of the gross receipts of such person received within the City from the fourth (4th) day of November, 1969 to the thirty-first (31st) day of December, 1969, and thereafter a similar statement on the last day of July and the last day of January of each year of such receipts for the six (6) calendar months preceding the filing of such statement. The City Clerk or his duly authorized deputy shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during business hours to examine the books,

documents, papers, and records of any person making such statement in order to ascertain the accuracy thereof.

Section 12-15. Payment of License Tax. [Ord. No. 274 §4]

Every person now or hereafter engaged in any of the businesses described in Section 12-13 shall, at the same time as making the sworn statement required in Section 12-14, pay to the City Collector of the City an amount equal to five percent (5%) of the gross receipts derived from such business in the City for the preceding six (6) calendar months.

Section 12-16. Effect of License Tax on Other Taxes Levied by City. [Ord. No. 274 §5]

The tax required by this Subdivision to be paid shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in Section 12-13; but nothing contained in this Subdivision shall be so construed as to exempt any such person from the payment to the City of the tax which the City levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than gas, nor shall the tax required by this Subdivision exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 12-13.

Section 12-17. Penalty for Violation of Subdivision; Continuing Violations. [Ord. No. 274 §6]

Any person engaged in any of the businesses described in Section 12-13 who shall violate any of the provisions of this Subdivision 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), and each day's violation of this Subdivision shall constitute a separate offense.

ARTICLE III
Business License Taxes

Section 12-18. Definitions. [Ord. No. 299, §2.; Ord. No. 1292 §1, 6-17-1997; Ord. No. 1454 §1, 5-16-2000]

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

AMUSEMENT PARK GROSS RECEIPTS — The aggregate amount of all sales, operating revenues determined in accordance with generally accepted accounting principles, fees, commissions, rental and leasing fees and shall include the receipt of cash (or accrual basis), credits and property of any kind or nature without any deductions therefrom on account of the cost of any items sold, the cost of any materials used, or of any labor, service costs, interest paid or payable, or any losses or any other expenses whatsoever; provided, that the following shall be excluded from any computations of gross receipts if the books of accounts segregate the amount so as to reflect such exclusions:

- (1) Receipt of taxes levied by State and Federal Governments collected by the seller;
- (2) Such part of the sales price of goods, wares, merchandise or personal property returned by the purchaser as is refunded either in cash or by credit;
- (3) Receipts of refundable deposits, except that portion of refundable deposits forfeited and taken in the gross receipts of the seller;
- (4) Receipts for the parking of vehicles;
- (5) Receipts from organizations exempt from sales tax pursuant to Chapter 144, RSMo.;
- (6) Receipts arising out of other than local sponsorships; and
- (7) Receipts arising out of barter agreements.

MANUFACTURER — Every person who shall manufacture, hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing or refining, or by the combination of different materials or shall purchase and sell manufactured articles such as he manufactures or uses in manufacture, except as provided in this Article.

MERCHANT — Every person who shall deal in the selling of goods, wares and merchandise at any store, stand or place within the City, including those who engage in the furnishing for profit of any services in connection with the sale of goods, wares and merchandise at any store, stand or place within the City, except as otherwise provided in this Article. Every person doing business in the City who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sales of goods, wares and merchandise to any person shall be deemed to be a merchant, whether such sales be accommodation sales, whether they be made from a stock of goods on hand or by ordering goods from another source, and whether the subject of the sales be similar to or different from the types of goods, if any, regularly sold by such seller. Construction trade contractors and subcontractors which do not operate from a physical location within the Eureka City limits are exempt from business license requirements.

PERSON — One (1) or more persons, individuals, copartnerships, associations, joint stock companies, business trusts or corporations.

Section 12-19. Required. [Ord. No. 299, §1]

No person, firm copartnership, association or corporation shall engage in, or own, manage, operate or control, any of the various businesses, employments, occupations, agencies, amusements or exhibitions; or own, manage, operate or control any public buildings, public halls or any other of the matters and things hereinafter listed unless such person, firm, copartnership, association or corporation shall first apply to the City Clerk for a license which shall be issued to the applicant by the City Clerk upon the payment of the license fee established herein, provided the applicant has complied with all ordinances governing the issuance of the license to do or engage in the business, occupation, matter or thing for which the license is requested.

Section 12-19.1. Effect of Defalcation in Payment of Sales Taxes; Bonds. [Ord. No. 730, §1]

- (a) Any defalcation in the payment of sales tax to the state and/or the city shall constitute cause for the denial of the renewal of any liquor and/or merchant's license previously issued by the city.
- (b) By making application to the city for a liquor or merchant's license, the license applicant consents that, in the event of defalcation of payment of sales tax to the state and/or city, the licensee shall do one of the following three things:
 - (1) Post a bond with the city clerk from a licensed bonding company, pending resolution with the department of revenue by agreement, compromise or judgement. The amount of such bond shall be determined by the board of aldermen but shall not be more than three times the average monthly tax liability of the licensee/taxpayer;
 - (2) Post a cash bond with the city clerk. The amount of such bond shall be determined by the board of aldermen but shall not be more than three times the average monthly tax liability of the licensee/taxpayer; or
 - (3) Forfeit the license issued by the city.
- (c) In the event that the licensee is in defalcation and the city has refused to reissue the license, the license shall automatically be extended for a thirty day period, during which time the licensee may cure such defalcation or post a bond in accordance with paragraph (1) or (2) of subsection (b) of this section.
- (d) At such time as the board of aldermen shall deem the amount of a bond required by this section to be insufficient to cover the average monthly tax liability of a given licensee/taxpayer, it may require such licensee/taxpayer to adjust the amount of the bond to the level satisfactory to the board of aldermen which will cover the amount of such liability.
- (e) The board of aldermen may require the posting of a bond to insure the payment of sales tax in the instances of itinerant or temporary licensees/taxpayers, in such amount as the board may determine. The board of aldermen shall, after a reasonable period of satisfactory tax compliance, not less than two years from the initial date of bonding, release such licensee/taxpayer from the bond requirement as set forth in this section. All itinerant or temporary licensees/taxpayers shall be required to procure the license and post the bond required under this section prior to the issuance of any liquor or merchant's license, the amount of such bond to be determined by the board of aldermen.
- (f) All cash bonds shall be deposited by the city treasurer into the city treasury and shall be released to the taxpayer pursuant to subsection (e) of this section from funds appropriated by the board of aldermen for such purpose. If appropriated funds are available, the city treasurer shall cause such refunds to be paid within thirty days of the receipt of a warrant request for such payment from the board of aldermen.

Section 12-20. Schedule of Fees; Exceptions; Separate License Required for Each Place of Business. [Ord. No. 299, §3; Ord. No. 551, §1; Ord. No. 616, §1; Ord. No. 947 §1; Ord. No. 1194 §2, 9-19-1995; Ord. No. 1213 §§1-2, 2-20-1996; Ord. No. 1454 §1-2, 5-16-2000; Ord. No. 1611 §1, 5-21-2002]

(a) There is hereby levied an annual license tax of twenty-five dollars (\$25.00) upon the privilege of engaging in the following businesses, employments, occupations and activities within the City:

1. Agencies for collection.
2. Agents for express.
3. Agents for insurance.
4. Agents for laundries and cleaners.
5. Agents for loan companies.
6. Agents for manufacturers.
7. Agents for miscellaneous.
8. Agents for real estate.
9. Abstractors.
10. Auctioneers.
11. Amusements.
12. (Reserved)
13. Architects.
14. Artists.
15. Automobile agencies.
16. Automobile dealers.
17. Automobile repair shops.
18. Automobile repair shops combined with automobile dealers or agencies or public garages.
19. Automobile wrecking shops.
20. Banks and trust companies.
21. Barbershops.
22. Baseball parks.
23. Billiard tables.
24. Bill posters.

25. Blacksmith shops.
26. Boardinghouses.
27. Book stores.
28. Bookbinders.
29. Bowling alleys.
30. Boxing and sparring exhibitions.
31. Brokers.
32. Business office.
33. Butchers.
34. Canvassers.
35. Chiropodists.
36. Circuses and shows.
37. Cleaning and dyeing, carpet cleaners.
38. Cobblers and shoe repair.
39. Concerts.
40. Confectioners.

Contractors:

41. Brick.
42. Bridge.
43. Building.
44. Cement and concrete.
45. Electrical.
46. General.
47. Paint and paper hanging.
48. Plastering.
49. Sewer.
50. Stone and marble.
51. Street.
52. Corn doctors.

53. Dances or balls, public.
54. Dance halls.
55. Dealers in automobile accessories.
56. Delivery trucks: ice, dairy products, tea or coffee, meats, bakery products, lunch wagons, laundry or agents for the foregoing.
57. Drays.
58. Druggists.
59. Employment offices and agencies.
60. Exhibitions, boxing and wrestling.
61. Exhibitions: equestrian performances, puppet shows, legerdemain, tumbling, wax figures, ventriloquism, pony tracks, rope or wire walking, mechanical rides, merry-go-rounds, etc.
62. Exhibitions: theatrical, operatic or minstrel, other than for charitable, religious or benevolent purposes.
63. Express companies.
64. (Reserved)
65. Gasoline filling stations.
66. Gaugers.
67. Golf tees.
68. Grocers.
69. Hairdressers and beauty parlors.
70. Halls, public.
71. Haulers.
72. Hawkers and hucksters.
- 72.1. Home occupations.
73. (Reserved)
74. Horse or cattle dealers.
75. Hospital, private.
76. Hospital, for profit.
77. Hotels.
78. Ice cream stands.

79. Ice cream and soft drink stands combined.
80. Inspectors.
81. Insurance companies.
82. Junk dealers.
83. Laundrettes.
84. Laundries.
85. Lectures, public.
- 85.1. Limousine service.
86. Loan companies.
87. Lumber dealers.
88. Lung testers.
89. Magnifying glasses.
90. Manufacturers.
91. Masseur.
92. Menageries.
93. Merchants.
94. Money brokers.
95. Money changers.
96. Motels.
97. Moving companies.
98. Moving picture shows.
99. Muscle developers.
100. Museums.
101. Newspaper offices.
102. Nurseries; child care.
103. Nursing homes.
104. Office buildings.
105. Omnibuses.
106. Opera houses.
107. Ordinaries.

108. Parades and exhibitions.
109. Parking lots for profit.
110. Patent right dealers.
111. Pawnbrokers.
112. Peddlers.
113. Photographers.
114. Pinball tables.
115. Pistol galleries.
116. Plumbers.
117. Pool tables and other tables.
118. Private venereal hospitals.
119. Public buildings.
120. Public garages.
121. Public halls.
122. Public lectures.
123. Public masquerade balls, street exhibitions and dance houses.
124. Public meetings.
125. Rental service.
126. Restaurants.
127. Sales of unclaimed goods by express companies.
128. Shoeshine parlor.
129. Shooting galleries.
130. Sign painters.
131. Soda fountains.
132. Soft drink stands.
133. Stockyards.
134. Storage warehouses.
135. Street fairs and carnivals.
136. Tanneries.
137. Taverns.

- 138. Telescopic views.
 - 139. Tippling houses.
 - 140. Title examiners.
 - 141. Transfer and other vehicles.
 - 142. Trash collectors.
 - 143. Traveling and auction stores.
 - 144. Undertakers.
 - 145. Vendors.
 - 146. Warehouses.
- (b) A separate license tax is hereby imposed and shall be paid for each business activity or occupation listed above notwithstanding that more than one business activity or occupation may be carried on, owned or operated by the same person.
- (c) An annual business license tax shall be imposed for each point of sale within an establishment for which there is issued a Missouri Sales Tax Number. The intent of this Section is to provide for the issuance of a single annual business license to proprietors operating establishments which have a centralized point of sale.
- (d) There is hereby established an annual amusement park business license tax in the amount of three-eighths (3/8) of one percent (1%) on gross receipts generated by and within all amusement parks located in the City of Eureka. Such annual amusement park business license tax shall be calculated based on the previous calendar year's amusement park gross receipts. In the event that the previous calendar year's actual gross receipts are not determined by the due date of January first (1st), an estimated amount based on the prior year's actual gross receipts shall be remitted to the City. The City is to be provided written notification of any adjustments necessary to the amusement park business license tax by no later than April first (1st) after the actual gross receipts from the previous calendar year are determined. Such amusement park business license tax adjustment notification shall be accompanied by additional payment or the amount to be refunded as applicable.

Section 12-21. Display of License. [Ord. No. 299, §5]

Whoever shall obtain a license under this article shall keep the same in a conspicuous place so that it may be readily seen by the general public and by any police officer or any other official of the city.

Section 12-22. When Fees Payable; Prorating of Fees. [Ord. No. 299, §6]

All licenses and fees required by this article shall become due and payable on the first day of January of each year; provided, that if an applicant commences business on or after the first day of July, he shall be required to pay only one-half of the license fee.

Section 12-23. Form of License; Sales Tax Information. [Ord. No. 299, §7]

- (a) It shall be the duty of the city collector or city clerk to furnish the licenses required by this article and they shall be in the following form:

MERCHANTS LICENSE
(SERIALLY NUMBERED)

No. _____

THE CITY OF EUREKA, MISSOURI

TO ALL WHOM SHALL SEE THESE PRESENTS = = Greeting:

Know ye that _____, having made application to the City of Eureka on _____, 19____, for license as _____ in accordance with the applicable ordinances and _____, having complied with the requirements of the ordinances governing such cases, and having paid to the City Collector the sum of \$_____, being the license tax upon _____, is hereby authorized to operate a business as a _____ except as otherwise provided by ordinance, at any one stand, store or place of business within the City, for the period ending on the thirty-first day of December, 19_____.

Applicant declares his Missouri State Sales Tax Number to be: _____

This license is issued subject to compliance by the licensee with all ordinances and regulations of the City now in force and with those enacted during the term of this license.

_____ Mayor

_____ City Clerk

Countersigned and Seal

City Collector

- (b) All applicants for licenses shall provide for use in the license the correct identification or account number assigned to the applicant's business by the sales tax division of the state department of revenue, and if no such identification or account number has been assigned, then the applicant shall submit an affidavit stating the facts upon which the sales tax exemption is based. Any change in the sales tax status of the licensee shall be reported to the city when the license required by this article is first renewed after the change in sales tax status occurs.

Section 12-24. Transfer Fee. [Ord. No. 551, §3]

Licenses issued under this chapter are issued for a specific business at a specific location. If the business to which a merchant's license is issued moves to another location within

the city at which it will conduct its business, there shall be, in addition to the regular license tax applicable under this chapter, a one dollar transfer fee.

Section 12-25. Penalty. [Ord. No. 551, §4]

Whoever shall engage in any of the business activities or occupations listed in this article without first being issued a license, or who shall engage in a business activity after moving to a new location within the city without having paid the transfer fee provided for in section 12-24, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one dollar nor more than one hundred dollars or by imprisonment in the city jail or workhouse for a period not to exceed ninety days or by both such fine and imprisonment. Each day that a person shall engage in a business activity or occupation listed in this article without having paid the license tax or transfer fee levied herein shall be deemed a separate offense.

ARTICLE IV
Massage Establishment Code

Section 12-26. How Article to be Cited. [Ord. No. 600, §1]

This article shall be cited as the "Massage Establishment Code."

Section 12-27. Definitions. [Ord. No. 600, §1]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADMINISTRATOR — The city administrator.

APPLICANT — Any person who applies for a permit as required by this article.

EMPLOYEE — Any person, other than a masseur or masseuse, who renders any service to the permittee, who receives compensation or any consideration and who has no physician contact with the permittee's customers or clients.

MASSAGE — Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body, for medical or hygienic purposes, with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, unguents or other similar preparations commonly used in this practice.

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business, wherein massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on, for any form of consideration.

MASSEUR OR MASSEUSE — Any person who administers to another person, for any form of consideration, massage.

OUTCALL MESSAGE SERVICE — Any business not licensed as a massage establishment under the provisions of this article wherein massage is given, engaged in or

carried on, or permitted to be given, engaged in or carried on, for any form of consideration, not at a fixed location, but at a location designated by the masseur or masseuse, customer or client.

PERMITTEE — Any person receiving a permit to operate or massage establishment or outcall massage service under the provisions of this article.

Section 12-28. Exceptions to Article. [Ord. No. 600 §1; Ord. No. 1339 §1, 2-17-1998]

The provisions of this article shall not apply to properly licensed and certified massage therapists operating in or from an approved establishment, hospitals, nursing homes, sanitarium, persons holding an unrevoked certificate of entitlement to practice the healing arts under the laws of the State, barbers and beauticians duly licensed by the State, athletic trainers or persons working under the direction and control of such persons or in any such establishments.

Section 12-29. (Reserved) ²

Section 12-30. Permit — Required; Application; Fee; Appeals. [Ord. No. 600, §1; Ord. No. 1129 §2, 10-4-1994]

- (a) It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a massage establishment or an outcall massage service, as herein defined, without first having obtained a permit duly issued by the administrator as set forth herein.
- (b) It shall be unlawful for any person to engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the operation of a massage establishment or outcall massage service, as herein defined, or to perform or engage in massage, as herein defined, for any form of consideration, in any "motor vehicle" as defined in section 13-1, as amended, any "trailer" as defined in sections 23-1 and 23-75, as amended, or any "vehicle" as defined in section 13-1, as amended.
- (c) Application for a permit to engage in the business of massage establishment shall be obtained from the administrator and shall contain the following:
 - (1) The present address and two previous addresses (if any) within the three years immediately prior to the present address of the individual or partnership applicant;
 - (2) Written proof that the individual or partnership applicant is eighteen years of age or older;
 - (3) Individual or partnership applicant's height, weight, color eyes, color hair and sex;

². Editor's Note — Ord. No. 1129 §1 adopted on 10-4-1994 repealed §12-29 which originally derived from Ord. No. 600 §1.

- (4) Two portrait photographs at least two inches by two inches of each individual or partnership applicant;
 - (5) Businesses, occupations or employments of the individual or partnership applicant for the three years immediately preceding the date of the application;
 - (6) The history of the individual or partnership applicant in the operation of a massage establishment, outcall massage service or similar business or occupation;
 - (7) All convictions of each individual or partnership applicant for violations of criminal statutes or ordinances;
 - (8) The name, address and two portrait photographs at least two inches by two inches of each masseur, masseuse and employee who is to be employed in such establishments, or engaged as an independent contractor therein, and the terms and conditions of such employment or contract;
 - (9) Written proof that each masseur, masseuse or employee to be employed by such establishment, or engaged as an independent contractor therein, is eighteen years of age or older;
 - (10) Written proof of the training and experience in the field of massage of each masseur and masseuse to be employed by such establishment, or engaged as an independent contractor therein;
 - (11) All convictions of each masseur, masseuse, employee or independent contractor, of violations of criminal statutes or ordinances, other than minor traffic violations, and lawful pardons or rehabilitative activity related thereto;
 - (12) If applicant is a corporation, each officer, director and stockholder thereof shall furnish to the administrator the information required in paragraphs (1) through (7) of this subsection;
 - (13) If the applicant is a corporation, a photostatic copy of the certificate of incorporation as issued by the secretary of state, or from any other state in which incorporated; and a copy of the articles of incorporation;
 - (14) The address of the location of the premises, and a description or drawing, map or diagram of the area of the premises to be used as a massage establishment.
- (d) Applicant for a permit to engage in the business of an outcall massage service shall be obtained from the administrator, and shall contain the following:
- (1) All of the information required of an applicant for a massage establishment permit, found in paragraphs (1) through (13) of subsection (c) of this section;
 - (2) The address of the premises to be used as the base of operations, headquarters or office of the proposed outcall massage service.
- (e) [Repealed by Ord. No. 1129 §2, 10-4-1994]

- (f) Upon receipt of the application for a massage establishment or outcall massage service permit, the administrator shall refer the application to the zoning commission, city marshal and building commissioner. Each of these departments or divisions shall, within thirty days of the date of submission of such application, review the submitted information and/or make an inspection of the premises proposed to be used as a massage establishment or outcall massage service and submit a written report to the administrator concerning compliance with the provisions of this article and all other applicable statutes and ordinances.
- (g) The administrator shall issue such massage establishment or outcall massage service permit if it is found:
 - (1) That the operation, as proposed by applicant, complies or would comply with all applicable statutes and ordinances, including, but not limited to, the city's Building Code, zoning ordinances and health ordinances;
 - (2) That applicant, or if applicant is a corporation, the officers, directors and stockholders as stated herein, the masseurs and masseuses to be employed by such establishment or service or engaged as independent contractors therein and employees shall be eighteen years of age or older; and
 - (3) That applicant, or if applicant is a corporation, the officers, directors and stockholders as stated herein, the masseurs and masseuses to be employed by such establishment or service or engaged as independent contractors therein and employees shall be of good moral character.

Otherwise, such permit shall be denied. In the event of denial, notification and reasons for denial shall be set forth in writing and shall be sent to applicant by means of certified mail or hand delivery.

- (h) An appeal may be taken by any aggrieved party to the circuit court of the county, pursuant to the provisions of section 536.150 of the Revised Statutes of Missouri.
- (i) The permittee shall submit to the administrator the name, address and two portrait photographs, at least two inches by two inches, of each masseur, masseuse, independent contractor and employee, that is, subsequent to the issuance of the permit, employed or engaged in such establishment during the term of the permit.

Section 12-31. Same — Term; Renewal. [Ord. No. 600, §1; Ord. No. 1129 §2, 10-4-1994]

- (a) All permits for a massage establishment or outcall massage service shall be for a period of one year. All permits for massage establishments or outcall massage services issued prior to the passage of this amendment to the Massage Establishment Code shall expire on September 30, 1980.
- (b) Applications for renewal of massage establishment or outcall massage service permits shall be obtained from the administrator and shall contain the same information as required for an original massage establishment or outcall massage service permit.

- (c) Repealed by Ord. No. 1129 §2, 10-4-1994.
- (d) Applications for renewal of massage establishments or outcall massage service permits shall be submitted to the administrator within thirty days of the date of expiration of such permit, and a determination on such renewal application shall be made within thirty days of the receipt of the application.
- (e) Notification and appeal procedures with regard to renewal of permits shall be the same as required in section 12-30.

Section 12-32. Same — Display. [Ord. No. 600, §1]

- (a) The permittee shall display the massage establishment or outcall massage service permit issued in an open and conspicuous location on the premises or in the base of operations, headquarters or office.
- (b) The permittee shall maintain on the premises of the massage establishment or in the base of operations, headquarters or office of the outcall massage service a written register with the names, addresses and portrait photographs at least two inches by two inches of all masseurs and masseuses, whether employed by the permittee or engaged as independent contractors, and employees. Such register shall be open for inspection during business hours to all officials of the city and the county.
- (c) Masseurs, masseuses, employees and permittee shall carry a copy of the permits issued herein when performing any activity relating to an outcall massage service.
- (d) An appeal may be taken by an aggrieved party to the circuit court of the county in accordance with the provisions of section 536.100 et seq., of the Revised Statutes of Missouri.

Section 12-33. Promulgation of Sanitation Regulations. [Ord. No. 600, §1]

The administrator is authorized to promulgate reasonable rules and regulations pertaining to the sanitary requirements for the operation of massage establishments, and outcall massage services. The permittee, masseurs, masseuses, employees and customers shall comply with all such rules and regulations as promulgated herein.

Section 12-34. Alcoholic Beverages Prohibited. [Ord. No. 600, §1]

The possession and/or consumption of alcoholic beverages on the premises of any massage establishment is hereby prohibited and the permittee shall be held responsible if any alcohol is possessed or consumed on the premises.

Section 12-35. Transfer of Permit. [Ord. No. 600, §1]

No massage establishment or outcall massage service permit shall be transferable except upon first having obtained a new permit from the administrator pursuant to all of the requirements for a new applicant.

For purposes of this section, a "transfer" shall be deemed to have taken place if there is any change in an individual permittee, any change in any partner in a partnership permittee, or any change in an officer, director or stockholder of a corporate permittee.

Section 12-36. Hours of Operation. [Ord. No. 600, §1]

Any massage establishment or outcall massage service located in the city shall not be open, nor conduct operation, between the hours of 1:30 A.M. and 6:00 A.M.

Section 12-37. Penalties. [Ord. No. 600, §1]

Any person who violates any of the provisions of this article shall, upon conviction, be sentenced to not more than six months, or not more than a five hundred dollar fine, or by both such sentence and fine.

**ARTICLE V
Special Events**

Section 12-38. Special Events. [Ord. No. 1290 §1, 6-17-1997]

Any person, group, organization or other entity who wishes to conduct a special event shall be required to apply for and have issued by the City a special event permit, unless otherwise regulated by the City. A special event shall include a fireworks display, concert, rodeo or similar event which requires the erection of a structure, where parking, traffic, public safety, Police or fire protection would be affected. A special event permit application shall be completed by the applicant detailing a description of the event and when the event is proposed to be held. All applications shall be submitted to and reviewed by the City Administrator. At the City Administrator's discretion, he may forward the application to the Board of Aldermen for consideration. Any authority granted may be suspended or withdrawn if in the City's opinion the special event is operated or conducted in a manner inconsistent with representations made on the application, or is inconsistent with verbal representations made by the applicant during consideration of the subject application.

**ARTICLE VI
Miscellaneous Provisions**

Section 12-39. Residential Property Auctions. [Ord. No. 2166 §§1-2, 4-19-2011]

Auctions may be conducted in residential districts or on residentially utilized property in the City under the following conditions:

- (1) Such auction activity may only be conducted on lots a minimum of one (1) acre in size.
- (2) An auction may be held on a particular residential property no more frequently than once every twelve (12) months.
- (3) No auction activity may create a public safety or traffic hazard.