

CHAPTER 40
LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS
Proposed Amendments and Recodification

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PROPOSED

ARTICLE I. BUSINESS LICENSE CODE, GENERAL PROVISIONS

Sec. 40-1. Short title

Chapter 40, Articles I and II shall be known as the Business License Code.

Sec. 40-2. Tax for revenue

The term *license* as used in the Business License Code shall not be construed to mean a permit. The taxes prescribed herein are for general revenue purposes, and are not regulatory permit fees. Such taxes shall be in addition to any regulatory permit fees imposed by ordinances adopted by the City.

Sec. 40-3. Definitions

Administrative office means a location where the principal business transacted consists of providing administrative or management-related services such as, but not limited to, record-keeping, data processing, Internet technology, research, advertising, public relations, personnel administration, legal or corporate headquarters services, to other locations where the operations of the same business are conducted which lead more directly to the production of gross receipts.

Business means any commercial enterprise, activity, trade, calling, vocation, profession or any means of livelihood carried on by a person in the pursuit of profit or gain, including services performed by an individual for remuneration, but not including wages earned as an employee.

Calendar year means a year ending on the last day of December.

Call center means a centralized office used for receiving or sending a large volume of telephone calls, usually with some amount of computer automation. A business may use a call center for customer sales orders, providing customer product help or other customer services, telemarketing or debt collection.

City means the City of Kansas City, Missouri as defined by the City Charter.

Commercial domicile means the principal place from which the trade or business of the taxpayer is directed or managed.

Commissioner means the Commissioner of Revenue of the City of Kansas City, Missouri.

Eligible gross receipts tax means a tax which:

(1) Is imposed on the act or privilege of engaging in business activities, and

- (2) Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
- (3) Is not, pursuant to law or custom, separately stated from the sales price; and
- (4) Is not a sales or use tax, business license tax, franchise tax, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
- (5) Is a tax imposed by a local jurisdiction, whether within or without the State of Missouri, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

Engaging in business - (1) The term "engaging in business" or "engage in business" means to engage in any activity in pursuit of profit or gain, including, but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Engaging in business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

(2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license or pay City business license taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

- (l) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - (j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
 - (k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians, except where a particular profession is exempt from municipal license taxes under the Constitution or Laws of the state of Missouri.
 - (l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - (m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
 - (n) Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - (o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - (p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
 - (q) Accepting or executing a contract with the City, irrespective of whether goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City.
- (4) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.
- (a) Meeting with suppliers of goods and services as a customer.
 - (b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - (c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf.
 - (d) Renting tangible or intangible property as a customer when the property is not used in the City.
 - (e) Attending, but not participating in a trade show.
 - (f) Conducting advertising through the mail.
 - (g) Soliciting sales by phone from a location outside the City.
- (5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business

license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Missouri. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Gross receipts of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, taxes, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

Gross proceeds of sales means the value proceeding or accruing from the sale of tangible personal property or for services rendered without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

Individual means a natural person.

Insurance company means a corporation or association whose business is to make contracts of insurance by which it agrees to indemnify the other parties thereto from a loss or damage which they may suffer from a specified peril. An insurance company includes mutual companies and stock companies. A mutual insurance company is one whose fund for the payment of losses consists not of capital subscribed or furnished by outside parties, but of premiums mutually contributed by the parties insured. A stock company is one organized according to the usual form of business corporations, having a capital stock divided into shares, which, with current income and accumulated surplus, constitutes the fund for the payment of losses, policy-holders paying fixed premiums and not being members of the association unless they also happen to be stockholders.

Licensee means a person licensed to do business within the City under the Business License Code.

Manufacture means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different, or useful product is produced for sale or commercial or industrial use, and shall include:

- (a) The production of special or custom made articles;
- (b) The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
- (c) Crushing and or blending of rock, sand, stone, gravel or ore; and
- (d) The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations, including but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

Minor means a person who has not attained eighteen years of age.

Person includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

Taxpayer means a person required to pay tax under the Business License Code.

Value of products. (1) The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof, whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

(2) Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The commissioner may prescribe rules for the purpose of ascertaining such values. (3) Notwithstanding subsection (2) above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (2)

the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

Sec. 40-4. Business license required.

No person not otherwise exempt shall engage in business within the City unless such person shall have first obtained a business license and paid the license tax required under the Business License Code.

Sec. 40-5. Persons licensed under prior law.

(a) Persons licensed under the business license code in force prior to the enactment of this Business License Code are subject to the license and tax requirements of this Business License Code as of the effective date of this Code. The enactment of this Business License Code shall not release or discharge any obligations or taxes due, and all obligations, taxes, and penalties due for periods before the effective date of this Business License Code shall remain in force, including the duty to file an adjusted return on or before March 1, 2010 for additional tax due for the license period of January 1 through December 31, 2009.

(b) Annual licenses due to expire on December 31, 2009 that were issued under the prior business license code shall remain in force during the transition to the new Business License Code and be extended until April 15, 2010.

Sec. 40-6. Issuance and form of licenses.

The commissioner of revenue shall issue all licenses required under the Business License Code and shall prescribe the form thereof. Except as otherwise provided, all licenses shall be for a period of one year, and shall be issued as of April 15 of the current year, and shall expire on April 14 of the next year.

Sec. 40-7. Illegal occupations.

A business license issued pursuant to this Business License Code does not authorize, permit or allow the licensee to do any act or conduct any business of any kind which is otherwise prohibited by City charter, ordinances or regulations; or any state or federal statute, law, rule order of regulation.

Sec. 40-8. Compliance with zoning regulations.

The commissioner of revenue shall issue all licenses subject to the licensee's compliance with all zoning requirements. Before issuing a business license, the commissioner shall exercise due diligence to assure that the business is in compliance with City zoning requirements. The commissioner shall have the power revoke any license for failure to comply with zoning requirements.

Sec. 40-9. Exemptions.

To the extent set forth below, the following persons or gross receipts are exempt from the requirements of the Business License Code:

(a) The United States and its agencies, the state of Missouri and its agencies;

(b) Any state, county or municipal government and its agencies or departments;

(c) Persons whom the City is prohibited from taxing under the Constitution or Laws of the United States, or Constitution or Laws of the state of Missouri;

(d) Gross receipts from transactions which the City is prohibited from taxing under the Constitution or Laws of the United States, or Constitution of Laws of the state of Missouri;

(e) Organizations that qualify for exemption from the federal income tax under Section 501 of the Internal Revenue Code, except to the extent that organization has gross receipts from unrelated business income subject to taxation under Section 501(b) of the Internal Revenue Code;

(f) Amounts derived by persons, other than those engaged in banking, loan, security, real estate or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

(g) The following gross receipts of an individual:

1. Gross receipts from sales, exchanges, or involuntary conversion of the individual's primary or secondary residence;

2. Gross receipts from the sale of personal property acquired for household or other personal use by the seller;

(h) Any person whose only business transactions are exclusively limited to the following activities:

1. Operating a display space, booth or table for selling or displaying merchandise at a community market, fleas market, swap meet or similar event for less than ten days in any calendar year;

2. Child care, if the person is a minor;

3. Mowing and lawn work, if the person is a minor.

Sec. 40-10. Exclusions.

In determining gross receipts, gross proceeds of sales or value of products for purposes of the Business License Code the following shall be excluded:

(a) Cash discounts allowed and taken on sales;

(b) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included in gross receipts;

(c) Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as if refunded either in cash or by credit;

(d) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;

(e) Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has provided the commissioner with the names and addresses of the others and the amounts paid to them.

(f) Cash value of sales, trades or transactions between departments or units of the same business.

Sec. 40-11. Business license initial application.

Before engaging in business within the City every person required to have a license under the Business License Code shall make a written application to the commissioner of revenue upon a form approved by the commissioner and submit the following information:

(a) The nature or kind of business for which the business license is requested;

(b) The place or places where the business is to be conducted, and, if the business is not to be conducted at a permanent location, the residence address, identified as such, of the owners of the business;

(c) If the application is made for the issuance of a business license to an individual, the name and residence address of the individual;

(d) If the application is made for the issuance of a business license to a corporation, partnership, limited liability company or other business entity, the legal name of the entity;

(e) The federal tax identification number of the business (social security number for an individual doing business);

(f) A statement of estimated gross receipts, gross proceeds of sales and value of products of the business where the tax for the license is based on gross

receipts of the business, gross proceeds of sales, value of products, or any combination thereof;

(g) For any business where goods are sold at retail, the applicant shall furnish proof of possession of a current and valid retail sales license issued by the state of Missouri.

(h) A written declaration, verified by the applicant, to the effect that the statements made in the application are true;

(i) Any further information that the commissioner may require to enable the issuance of the business license.

Payment of any tax due shall accompany the application.

Sec. 40-12. License tax for new businesses

(a) *Preliminary tax.* Applicants of new businesses required to obtain a license under this chapter where the tax for such license is based on the annual gross receipts of the business, gross proceeds of sales, value of products, or any combination thereof, shall pay a preliminary license tax at the rate prescribed in this chapter based on the estimated gross receipts of the business, gross proceeds of sales or value of products anticipated for the current calendar year, to be adjusted at the end of the license period, or upon cessation of business as described in subsection (b) of this section.

(b) *Adjustment returns.* New businesses paying a preliminary business license tax based on estimated gross receipts of the business, gross proceeds of sales, value of products, or any combination thereof, shall adjust their tax liability at the end of the license period at the rate prescribed in this chapter based on the actual gross receipts of the business, gross proceeds of sales or value of products for calendar year just ended or portion thereof the taxpayer was engaged in the licensed business.

(c) *Due date for adjustment returns and payments.* The tax return reporting the adjustment amount shall be due and any additional tax owing shall be paid on or before April 15 of the year succeeding the year the preliminary tax was due or within ninety days after the taxpayer ceased to be engaged in business. Any overpayment shall be credited to the preliminary license tax for the succeeding license period, or otherwise paid or refunded.

Sec. 40-13. Licenses for continuing businesses, renewal, payment of tax

(a) *Business license renewal.* The business license shall be renewed annually by completing a license renewal application on a form approved by the commissioner. The renewal application shall include the same information as an initial application, including, when required by state law, proof of possession of a valid retail sales license issued by the state of Missouri.

(b) *Preliminary tax.* All continuing businesses required to pay license tax based on the annual gross receipts of the business, gross proceeds of sales, value of products, or any combination thereof, shall pay a preliminary license tax at the rate prescribed in this chapter based on the gross receipts of the business, gross proceeds of sales or value of products for the preceding calendar year, to be adjusted at the end of the license period, or upon cessation of business as described in subsection (d) of this section.

(c) *Due date for license renewal application and preliminary tax.* The license renewal application and preliminary tax shall be due on or before the fifteenth day of April of the current year.

(d) *Adjustment returns.* Continuing businesses shall adjust their tax liability at the end of the license period at the rate prescribed in this chapter based on the actual gross receipts of the business, gross proceeds of sales or value of products for calendar year just ended or portion thereof the taxpayer was engaged in the licensed business.

(e) *Due date for adjustment returns and payments.* The tax return reporting the adjustment amount shall be due and any additional tax owing shall be paid on or before April 15 of the year succeeding the year the preliminary tax was due or within ninety days after the taxpayer ceased to be engaged in business. Any overpayment shall be credited to the preliminary license tax for the succeeding license period, or otherwise paid or refunded.

(f) *Responsibility of Licensee to Renew License.* No renewal of a business license shall be processed or issued until payment in full of all current and delinquent business license taxes, including applicable penalties, have been received by the City. It shall be the responsibility of the licensee to ensure renewal of the business license.

(g) *Commissioner to prescribe forms.* The commissioner shall prescribe the forms to be used for the license renewal application and the adjustment return. The license renewal application shall include the same information as an initial application, including, when required by state law, proof of possession of a valid retail sales license issued by the state of Missouri. To simplify administration, the commissioner may combine on a single form the adjustment return and the license renewal application for the succeeding license period.

Sec. 40-14. Statement of gross receipts; copy of state tax return

(a) Every person required to obtain a license under the provisions of this chapter where the tax for such license is based on gross receipts of the business, gross proceeds of sales or value of products shall, as part of any tax return submitted, furnish a statement in writing on a form prescribed by the commissioner showing the amount of gross receipts, gross proceeds of sales or value of products. The

statement shall include a declaration, verified by the taxpayer, to the effect that the information included therein is true and accurate.

(b) Every person required to furnish such statement of gross receipts shall include with any tax return submitted to the commissioner a copy of the person's latest Missouri state income tax return, or other appropriate documentation of statewide gross receipts that is acceptable to the commissioner.

Sec. 40-15. Posting and keeping of license.

All licenses issued pursuant to this Business License Code shall be posted and kept in the following manner:

(a). All persons doing business at a fixed location in the city shall keep such business license posted in a conspicuous place upon the premises where such business is carried on.

(b). Any persons doing business, but not operating at a fixed location in the City, shall keep such license, or a copy thereof, upon them at all times while doing business in the City.

Sec. 40-16. Person operating business at more than one location.

A person operating a business of the same occupation at more than one location in the City shall file a single business license application or renewal return, listing all the locations of the business, and shall report the combined taxes due from all locations in a single return in such form as may be prescribed by the commissioner.

The commissioner shall issue a license for each location listed on the application or renewal return.

Sec. 40-17. Duplicate licenses

A duplicate business license may be issued by the commissioner to replace any business license issued pursuant to the Business License Code, which business license has been lost or destroyed, upon the filing of a statement of such fact and the payment of a duplicate fee of twenty-five dollars.

Sec. 40-18. Confidentiality

Except as otherwise required by law, it shall be unlawful for the Revenue Division or any employee or agent of the City to divulge, release or make known any financial information submitted or disclosed to the City under the provisions of the Business License Code. Nothing in this section shall be construed to prohibit:

- (a). The disclosure of:
 - 1. The name(s) of applicant(s) for a business license;

2. The place at which the applicant is permitted to conduct the business authorized, if the license is for such purpose, otherwise the place of business or residence of the applicant;

3. The date of issuance of the license.

In making the above disclosure, the commissioner shall furnish to any member of the public who so requests a copy of the original license or renewed licenses and a statement as to the status of the current year's license as being in force, having lapsed, or having been revoked. The commissioner may charge a reasonable fee for the cost of providing such information.

(b). The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual licensee;

(c). The filing of any legal action by or on behalf of the City to obtain payment of unpaid accounts, and the disclosure of a licensee's financial information in a court petition, judgment or as evidence submitted to a court of law.

(d). The assignment to an outside collection agency of any unpaid account balance receivable, provided that the commissioner notifies the licensee of the unpaid balance at least 60 days prior to the assignment of the claim.

Cross reference—Separate records to be kept—open to inspection, RSMo §82.370.

Sec. 40-19. Assessment

(a). *Circumstances for assessment.* Under any of the following circumstances, the commissioner may make and give notice of an assessment of business license tax owed by a person under this Article:

1. If the person has not filed any statement or return required under this Business License Code;

2. If the person has filed a correct statement or return but has not paid the full amount of tax due as shown on the statement or return.

3. If the person has filed an incorrect statement or return and owes additional taxes as determined by the commissioner.

4. If the person has not, after request by the commissioner, furnished to the commissioner adequate substantiation of the information contained in a statement or return already filed.

(b). *Assessment procedure.*

The notice of assessment shall state separately the amount of tax due together with penalty imposed thereon. The notice of assessment shall be served upon the licensee by deposit in the United States mail, postage prepaid thereon, addressed to the taxpayer at the address of the location of the business appearing on the face of the last business license issued to the taxpayer or to such other address as the taxpayer registers with the Revenue Division for the purpose of receiving notice under this Article; or, should the person have no license issued to him and should he have no address registered with the Revenue Division for this purpose, then to such person's last known address. For purposes of this section, a service by mail is complete at the time of deposit in the United States mail. A person who has been assessed shall have thirty (30) days to respond to the assessment by (1) Paying the assessment in full and filing the necessary return(s), which shall discharge the assessment; or (2) Paying the tax under protest, including with the payment a written statement setting forth the grounds on which the protest is based, pursuant to Section 139.031 of the Missouri Revised Statutes; or (3) Requesting a conference with the commissioner pursuant to Section 40-20 of this Article. If the taxpayer does not respond to the assessment, in one of the ways specified herein, within thirty (30) days of the date of mailing thereof, such assessment shall be deemed true and correct and may be recovered by the city under the provisions of Section 40-28 of this Article.

Sec. 40-20. Taxpayer conferences following assessment.

(a) Conference request, time for making and contents. A taxpayer who disagrees with an assessment issued by the commissioner may request a conference with the commissioner of revenue by making a request in writing within thirty (30) days of the mailing of the assessment. The request shall be addressed to the commissioner and shall include the taxpayer's name, address and taxpayer identification number, a copy of the notice of assessment in dispute, the tax period(s) in dispute, a statement of the items in the assessment with which the taxpayer disagrees, and the reasons for disagreement. Documents supporting the taxpayer's position, such as federal tax returns, financial statements or other relevant documents may be submitted with the conference request. In the alternative, the taxpayer may submit such supporting documents at the conference or between the filing of the conference request and the date of the conference. The request may be delivered in person, by mail or by facsimile to the commissioner, but must be received in the Revenue Division within thirty days of the mailing of the assessment. Failure to timely submit the request for conference or to include the required information shall result in a denial of the request for conference.

(b) Actions on conference request. After receipt of the taxpayer's conference request, the commissioner shall mail the taxpayer a notice, at the address provided in the request, acknowledging the receipt of the

conference request and notifying the taxpayer of one of the following actions taken on the request:

- (1) That a conference will be held at a date and time stated in the notice;
 - (2) That the conference request was denied because the request was not timely made or the request did not contain the required information; the taxpayer shall have an additional thirty days after notification the conference request was denied to pay the tax or to pay the tax under protest pursuant to Section 139.031 RSMo.
 - (3) That a conference will not be granted because the commissioner was able to make a determination on the merits from the information contained in or submitted with the request for conference; The notice shall inform the taxpayer of such determination, after which the taxpayer shall have an additional thirty days to pay the tax or pay the tax under protest pursuant to Section 139.031 RSMo.
 - (4) That a conference will not be granted because the taxpayer provided new information that will be considered by the revenue agent assigned to the case, and a revised assessment will be made by the revenue agent. Any such revised assessment shall be treated as a new assessment for purposes of the taxpayer's right to respond.
- (c) Continuances. The taxpayer may be granted a continuance of a scheduled conference for good cause shown. Requests for continuance must be in writing and received no later than three (3) days before the scheduled conference date.
- (d) Conference procedure. Conferences shall be conducted at city hall or such other location within the city designated by the commissioner and subject to the confidentiality provisions of the Business License Code. The formal rules of evidence shall not apply and the conferences shall be conducted under written procedures issued by the commissioner and mailed to the taxpayer with the notice of conference. The taxpayer may be represented by an attorney licensed to practice in the State of Missouri, a certified public accountant licensed in the State of Missouri, an enrolled agent authorized to appear before the Internal Revenue Service, or such other persons as may be authorized under the regulations or in the conference procedures issued by the commissioner.
- (e) Conference determination. After the conference is held and the commissioner has considered all of the information presented, the commissioner shall make a determination affirming, reversing or revising the assessment, and shall mail the determination to the taxpayer. Failure

by the taxpayer or his representative to attend a scheduled conference shall result in a determination affirming the assessment.

- (f) Effect of conference on collection and time to pay under protest. The granting of a taxpayer's request for conference shall suspend collection of the assessment and extend the taxpayer's time for payment under protest of the tax pursuant to Section 139.031 RSMo until thirty (30) days after the conference determination is mailed. Payment under protest and the filing of a petition for refund in circuit court following a conference determination shall be governed by the provisions of Section 139.031 of the Missouri Revised Statutes. A conference determination shall be considered the final determination of the assessment by the commissioner, and shall be deemed true and correct and recoverable by the city if the assessment is not paid or paid under protest within thirty days of the mailing of the conference determination.

Sec. 40-21. Right to audit.

All business license applications and renewal returns shall be subject to audit. The commissioner of revenue, or any deputy or agent of the commissioner, or any certified public accountant employed by the commissioner, shall have the power to audit and examine all books and records of any person doing business in the City, for the purpose of ascertaining the amount of the business license tax, if any, required to be paid by the provisions of this Article. The commissioner shall have the power to issue subpoenas and all necessary processes and to require the production of papers. If any person filing a business license application or renewal return or any person doing business in the City without a license, after written demand by the commissioner or his deputy or agent, fails or refuses to make available for audit, examination or verification such books or records as requested, the commissioner may, after full consideration of all information within his knowledge concerning the business and activities of the person so refusing, make an assessment in the manner provided in Section 40-19 of any taxes estimated to be due. The commissioner may also impose such penalty as is provided in Section 40-25 of this Article for the person's failure or refusal to provide documents.

Sec. 40-22. Suspension or revocation of license

(a) A license issued under the provisions of this chapter may be revoked, suspended or denied by the commissioner after notice and hearing for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the license application.

2. Any violation of the terms or provisions of this chapter, including failing or refusing to make available for audit, examination or verification books and records requested by the commissioner pursuant to Sec. 40-21 of this Article.

(b) Notice of hearing for the denial, suspension or revocation of a license shall be given in writing setting forth specific reasons for the denial, suspension or revocation of the license and the time and place of the hearing. Such notice shall be mailed to the licensee at the last known address, at least five days prior to the date set for the hearing. In the alternative, such notice of hearing may be delivered to the licensee by personal service.

(c) Upon revocation or suspension no refund of any portion of the license tax shall be made to the licensee, and the licensee shall immediately cease all business operations at each place found to be in violation of the provisions of this Chapter or any other law or ordinance.

(d) Any person who continues to engage in any business, profession or occupation during the term of such suspension or after revocation of the business license shall be guilty of an ordinance violation, and upon conviction thereof in municipal court be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense.

(e) Any person aggrieved by the decision of the commissioner in regard to the denial of an application or renewal of a license or the revocation of a license as provided in this chapter shall have the right to judicial review pursuant to the provisions of Chapter 536 of the Missouri Revised Statutes.

Sec. 40-23. Surrender of license when license nullified under state law

(a) *Surrender of City business license.* For any business where goods are sold at retail and a Missouri retail sales license is required, the revocation of the state retail sales license shall render any business license issued by the City null and void, provided however, that the Director of Revenue of the State of Missouri or his duly authorized representative must inform the commissioner of such revocation of the retail sales license in the manner required by state law. The commissioner or revenue shall notify the holder of such voided license to surrender the City license to the Revenue Division.

(b) *Fine for operating after license nullified.* Any person who continues to operate in the City a business where goods are sold at retail after the commissioner of revenue has notified the licensee to surrender his license pursuant to this section shall be guilty of an ordinance violation, and upon conviction thereof in municipal court be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each day of such violation. Each day's violation shall constitute a separate and distinct offense.

(c) *Reissuance of City license.* The commissioner, upon presentment of proof of reinstatement of the Missouri retail sales license, may reinstate and

reissue the City business license for the remaining term of the license upon payment of a reinstatement fee of Twenty-Five Dollars (\$25.00).

Cross reference—Retail sales license required for all collectors of tax—prerequisite to issuance of city or county occupation license, RSMo §144.083.

Sec. 40-24. Duty of police to enforce license laws

The Chief of Police and the Police Department shall cooperate with the commissioner of revenue for the strict enforcement of this chapter and all license ordinances.

Sec. 40-25. Penalties.

(a) *Penalty for failure to pay tax when due.* Whenever any license tax, as fixed in this chapter, shall have remained unpaid after the date fixed for payment by this chapter, a penalty of ten (10) percent of the amount due shall be imposed and an additional penalty of two percent of the original tax shall be added on the last day of each calendar month thereafter until such payment and accrued penalties have been fully paid. In no case shall the total penalty exceed thirty (30) percent of the original tax. This section shall not apply to motor vehicle licenses provided for by article V of this chapter. This section shall not be deemed a waiver of the right of any court to impose a penalty for the violation of the ordinances of the city respecting the time when any license tax is due.

(b) *Penalty for failure to provide documents.* If the licensee fails to provide documents requested pursuant to Section 40-21 of this Article (Right to Audit), the commissioner may impose a penalty of up to five hundred dollars (\$500.00) for such violation, in addition to any other remedies granted to the commissioner.

(c) *Waiver of penalties.* The commissioner may waive all or any portion of penalties imposed under the Business License Code. This authority may be exercised at the discretion of the director under special circumstances.

Sec. 40-26. Remedies cumulative.

All remedies prescribed by the provisions of this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

Sec. 40-27. Payments applied.

Business license payments received shall first be applied to the tax due, then to any penalty imposed.

Sec. 40-28. Collection of unpaid taxes.

All taxes imposed by this chapter, together with penalties, shall be recoverable by the city as any other debt is recoverable. The city shall be entitled to recover a reasonable attorney's fee not exceeding ten percent of the tax and penalty due.

Sec. 40-29. Limitations on assessment and collection.

(a) *Assessment.* All assessments under this chapter shall be made no later than five years from the date the return was required to be filed.

(b) *Collection.* All actions in court to collect tax and penalties due under this chapter shall be commenced no later than five years from the date the return was required to be filed.

Sec. 40-30. Refunds.

No tax collected under the provisions of this chapter shall be refundable or prorated in any manner, except that if the business subject to the tax shall establish to the satisfaction of the commissioner it has overpaid tax and shall, within a period of three years from the day on which the tax was due, file with the commissioner a claim for refund of such overpayment, the commissioner may refund or allow a credit on a renewal, of the sum so overpaid

Sec. 40-31. Additional powers of commissioner.

The commissioner is authorized to adopt, promulgate, amend and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of the Business License Code. All such rules and regulations must be approved by the city council before they shall become effective.

Sec. 40-32. Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstance shall not be affected.

Sec. 40-33. Effective date.

The amendments to this chapter enacted by the City Council on _____, 2009 shall become effective on January 1, 2010.

Sec. 40-34—40-60 Reserved.

ARTICLE II. BUSINESS LICENSE TAX RATES AND CALCULATION

Sec. 40-61. Imposition and rate of tax.

Pursuant to Article VIII, Section 812 of the City Charter and Section 92.045 RSMo (2000), a business license tax for general revenue purposes is hereby levied upon and shall be collected from every person for the act or privilege of engaging in business within the City, whether the person's office or place of business be within or without the City. Such license tax shall be in the amount set out in this article and chapter, except as otherwise provided in this Code or other ordinances.

Sec. 40-62. Rate of tax generally.

Every person engaging in business within the City for which no license tax is otherwise specified in this chapter or any other section of this Code shall pay an annual tax as follows:

(a) Gross receipts of the business, gross proceeds of sales, value of products of \$20,000 or less.

Every person which has gross receipts of the business, gross proceeds of sales or value of products of twenty thousand dollars or less per year shall be exempt from tax but shall be required to obtain a business license pursuant to the Business License Code.

(b) Gross receipts of the business, gross proceeds of sales, value of products of more than \$20,000 and not exceeding \$45,000.

Every person which has gross receipts of the business, gross proceeds of sales or value of products of more than twenty thousand dollars and not exceeding forty-five thousand dollars per year shall pay a tax of thirty-five dollars per year.

(c) Gross receipts of the business, gross proceeds of sales, value of products exceeding \$45,000.

Every person which has gross receipts of the business, gross proceeds of sales or value of products of more than forty-five thousand dollars per year shall pay a tax equal to the annual gross receipts of the business, gross proceeds of sales or value of products multiplied by the rate of seventy-nine one-thousandths of one percent (.00079).

Sec. 40-63. Persons conducting business exclusively within the City.

A person engaged in business exclusively within the City shall be taxable on one hundred percent of gross receipts of the business, gross proceeds of sales or value of products in the calculation of the tax under Section 40-62.

Sec. 40-64. Persons conducting business both within and outside the City

(a) A person who maintains an office or place of business in the City shall be taxable on all gross receipts, gross proceeds of sales or value of products derived from the business activities rendered by, generated from, or attributable to the office or place of business located within the City, unless specific deductions or exemptions apply.

(b) A person engaging in business activities in the City who does not maintain an office or place of business in the City shall allocate to the City that portion of the person's gross receipts or gross proceeds of sales that are derived from business activities performed in the City.

(c) A person who maintains an office or place of business in the City and also elsewhere:

1. Shall be taxable on that portion of his gross receipts, gross proceeds of sales or value of products derived from business activities rendered by, generated from, or attributable to the office or place of business located within the City, unless specific deductions or exemptions apply; and

2. Shall allocate to the City and be taxable on gross receipts or gross proceeds of sales from business activities performed in the City but supported by the office or place of business located outside the City, where the business activity performed in the City is a significant factor in making or holding the market for the goods or service sold, and

(a) Delivery of product or the performance of services occurs in Kansas City; or

(b) The customer is located in Kansas City.

Allocations of amounts under this subsection shall be made in accordance with the provisions of the Interstate Commerce Clause of the United States Constitution where applicable.

(d) If the Commissioner determines that the allocation of gross receipts from business activities for a person subject to subsection (c) above does not clearly reflect gross receipts derived from business conducted within the City, the Commissioner shall determine such gross receipts by either of the following methods (1) by a fair and equitable formula agreed upon by the Commissioner and the taxpayer after a consideration of the facts; or (2) by the ratio that the cost of doing business in the City bears to the cost of doing business both within and without the City. For apportionment purposes, all costs must be assigned to an office location.

Sec. 40-65. Deductions to prevent multiple taxation of transactions.

(a) *Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity.* A taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure such tax owed to the other jurisdiction from the measure of the tax owed to the City.

2. Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross receipts derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

(b) *Person manufacturing products within and without the City:* A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

Sec. 40-66. Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.

(a) Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional

requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

(b) To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

(c) *Credit for persons that sell in the City products that they extract or manufacture.* Persons taxable with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (1) with respect to the manufacturing of the products sold in the City, and (2) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(d) *Credit for persons that manufacture products in the City using ingredients they extract.* Persons taxable with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

Sec. 40-67. Manufacturers

Upon every person engaging in business within the City as a manufacturer, as to such persons the rate of tax specified in Sec. 40-62 shall be applied to the value of the products, including by-products, manufactured within the city. The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

Sec. 40-68. Administrative office or call center

As to any person engaged in the business of operating an administrative office or call center at a fixed place of business within the City the gross receipts of the business for purposes of the Business License Tax shall be equal to the costs of operation of such administrative office or call center. "Costs of operation" shall be equal to the total of the following items:

(a) Annual fair rental value of all real property located in the City and used for such administrative office or call center.

(b) Annual payroll of all employees based in the City.

(c) The cost of all utilities related to the operation of such administrative office or call center.

Sec. 40-69. Building, contracting or construction company

(a) For purposes of this section, *contractor* shall mean and include every individual, firm, association, joint stock company, syndicate, partnership, limited partnership, corporation and limited liability company, including any and all building crafts and enterprises, which shall engage in the business of building, erecting, repairing, remodeling or otherwise constructing or reconstructing houses, buildings, sidewalks, streets, bridges or other structures of every type and kind, or contracting with others for the performance of such work.

(b) No contractor, as the term is defined in this section, shall engage in, carry on or conduct a business for the performance of such work without first having obtained a license as such from the commissioner of revenue.

(c) No building permits shall be issued by the director of codes administration to any contractor for the construction, erection or remodeling of any residence, building or other structure, or any parts thereof, unless such contractor has obtained a license as such and has paid the license tax as provided in this section.

(d) The license tax for contractors shall be based on the gross receipts of the business done and performed by any such contractor within the corporate limits of the City during the preceding calendar year at the rate of tax specified in Section 40-62 of this Article.

(e) For purposes of this section, a contractor in computing its gross receipts may exclude that portion of its gross receipts which represents payments to subcontractors, provided that such subcontractors are licensed under the provisions of the Business License Code and the contractor furnishes the Commissioner with the names, addresses and City business license account numbers of the subcontractors, and the amounts paid to each one.

(f) For purposes of this section, a contractor or subcontractor does not include a person who merely furnishes material or supplies without fabricating them in the performance of the building project.

Sec. 40-70. Real estate rental business, residential or commercial

(a) Every person engaged in the business of offering residential or commercial real estate for rent shall pay a business license tax on the gross receipts from rent at the rate specified in Section 40-62 of this article.

(b) A person owning residential or commercial real estate and receiving rental income from the property will be presumed to be engaged in the business of offering real estate for rent unless the owner can establish that he is merely conserving his investment in the property. To determine whether an owner is

engaged in the business of offering real estate for rent or is merely conserving his investment in real property, the following factors will be considered:

- (1) The number of residential or commercial units rented in the city;
- (2) The amount of rental income the owner derives from property in the city;
- (3) The method and purpose of the acquisition: whether the owner fortuitously acquired the property by gift or inheritance, or deliberately purchased or developed the property for the rental income to be derived;
- (4) The amount of time and attention the owner devotes to management of the property.

(c) *De minimis exemption.* The rental of an individual's own residence or any portion thereof shall be exempt from the business license tax.

Sec. 40-71. Amusement park, single admission

(a) Where the general admission charged at the gate for each visitor to the amusement park includes the price of rides, theaters and other forms of amusement, a single license shall cover all operations and activities in the park.

(b) The license tax for all such amusement parks located in the city shall be based on gross receipts from the preceding year and computed at the rate of tax specified in Section 40-62 of this Article.

(c) Cafés, cafeterias, lunchrooms and restaurants operating inside the park shall be subject to the convention and tourism tax.

Sec. 40-72. Hotel, motel or tourist court.

(a) *Amount of tax.* Every person engaged in the business or renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof, in connection with any hotel, motel or tourist court shall pay to the city a license tax as follows:

\$1.50 per occupied room by a guest per day on all hotels, motels and tourist courts.

(b) *Definitions.* Definitions for the purpose of this section are as follows:

(1) *Guest* means a person who occupies a room in a hotel, motel or tourist court.

(2) *Hotel, motel or tourist court* means any structure or building, under one management, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being so provided, and kept, used maintained advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests or permanent guests, and having more than eight bedrooms furnished for the accommodation of such guests.

(3) *Occupied room* includes a room occupied by a non-paying guest. Complimentary rooms shall be considered occupied rooms for purposes of the license tax, except for:

(A) Rooms donated by a hotel, motel or tourist court to families of patients receiving medical care in hospitals in the Kansas City metropolitan area;

(B) Rooms donated by a hotel, motel or tourist court for raffles, auctions or similar fund-raising events to benefit charitable, educational, religious or other tax-exempt organizations;

(C) Rooms provided without charge by a hotel, motel or tourist court to meeting or convention planners during a pre-event site inspection;

(D) Rooms provided without charge by a hotel, motel or tourist court to representatives of business entities making a visit to evaluate Kansas City, Missouri as a business location or relocation site:

(E) Rooms provided without charge by a hotel, motel or tourist court to its employees, management or owners, or to the employees or management of its parent company or hotel or motel franchise entity.

(c) *Due date; issuance of licenses; reports.* Quarterly licenses shall be required. The license tax under this section shall be paid to the commissioner of revenue quarterly, due and payable on the following dates, for the preceding periods as listed, based on the actual number of occupied rooms within the respective period. The licensee shall make true reports on the dates listed below to the commissioner of revenue, on forms prescribed by the commissioner, giving such information that may be necessary to determine the number of occupied rooms to which the license tax shall apply within the preceding three month period.

Date License Tax / Report Due	Period Covered
April 20	January 1 through March 31
July 20	April 1 through June 30
October 20	July 1 through September 30
January 20	October 1 through December 31

The licensee must make any adjustments within 60 days of the end of the relevant quarterly license period (which is March 31, June 30, September 30 or December 31) or within 60 days after ceasing to engage in the business so licensed, whichever first occurs, on the basis of the actual number of occupied rooms to which the license tax applies during the quarterly license period. Any overpayment shall be credited to the next succeeding quarter's license tax, or otherwise paid or refunded to the licensee.

(d) *Examination of books and records.* The commissioner of revenue and his authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the licensee as may be necessary to determine the correctness of such reports.

(e) *Penalties for nonpayment.* Penalties for non-payment or late payment of any license tax due under this section shall be determined pursuant to Section 40-25.

Sec. 40-73. Insurance company

(a) Every company engaged in the business of an insurance company in the City and that is subject to the tax on direct premiums imposed by the state of Missouri, whether organized as a stock company, joint stock company, mutual company or reciprocal organization, or by means of subscribers operating by or through an attorney in fact or as an exchange or association or organization of any character, shall pay the following business license tax:

- (1) Combined fire and casualty insurance company (or commonly known as a multiple line company), per year..... \$200.00
- (2) Fire insurance company, per year.....\$200.00
- (3) Casualty company, per year.....\$100.00
- (4) Life insurance company, per year.....\$100.00
- (5) All other insurance companies subject to the tax on direct premiums imposed by the state of Missouri, per year.....\$100.00

(b) Any person engaged in business in the City and purporting to be an insurance company, but which is not subject to the tax on direct premiums imposed by the state of Missouri, shall pay the business license tax based on gross receipts of the business under Section 40-62 of this article.

(c) Insurance brokers shall pay the business license tax based on gross receipts of the business under Section 40-62 of this article.

Cross references—Occupation tax in certain cities, RSMo §148.440.

Sec. 40-74. Landscaping contractor

(a) Every person engaged in the business as a landscaping contractor shall pay a license tax based on the gross receipts of the business performed by such contractor within the corporate limits of the city during the preceding calendar year at the rate of tax specified in Sec 40-62.

(b) For the purposes of this section, a landscaping contractor, in computing its gross receipts may exclude that portion of its gross receipts which represents payments to subcontractors, provided that such subcontractors are licensed under the provisions of the Business License Code and the contractor furnishes the Commissioner with the names, addresses and City business license account numbers of the subcontractors, and the amounts paid to each one.

Sec. 40-75. Investment funds service corporation

An investment fund service corporation, as defined in Section 143.451 RSMo (2000), shall pay the license tax on gross receipts specified in Section 40-62 of this article, provided, however, that the tax shall not exceed the maximum amount permitted by state law.

Cross references—RSMo. §71.620.

Sec. 40-76. Rental car license tax.

(a) *Amount of tax.* Every person engaged in the business of renting, leasing or letting passenger vehicles for compensation shall pay to the city a license tax as follows: \$4.00 per day for each and every passenger vehicle rented, leased or let to a person or entity for 90 consecutive days or less, plus a license tax per year upon the annual gross receipts of the business of rental car agencies in accordance with the rates described in Section 40-62 of this article.

(b) *Definitions.* For purposes of this section, the following terms are defined as follows:

(1) *Rental car agency* means a person that provides the service of renting, leasing or letting passenger vehicles for compensation, whether the provision of such service is the primary, secondary, or incidental business of such person.

(2) *Passenger vehicle* means a motor vehicle designed primarily for the carriage of passengers, including, but not limited to, vehicles commonly classified as sedans, coupes, convertibles, station wagons, sport utility vehicles, passenger vans, "Suburban"-type vehicles or pick-up trucks, but does not include a vehicle licensed as a taxicab or a livery vehicle under chapter 76 of the Code of Ordinances.

(3) *Annual gross receipts of the business* as used in this section means annual gross receipts of the business exclusive of the \$4.00 per day per vehicle tax.

(c) *Issuance of license.* The license under this section shall be issued as of April 15 of the current year and shall expire on April 14 of the next year.

(d) *Gross receipts tax--Application, preliminary tax, year end adjustment.* The gross receipts portion of the license tax shall be paid and determined as follows:

(1) *Preliminary license tax and application.* The preliminary license tax and application shall be due and payable April 15 of the current year. The preliminary license tax shall be calculated based on anticipated gross receipts for the current year at the rate prescribed in Section 40-62 of this article based on annual gross receipts of the business from the preceding calendar year. The application shall be made in such form as required by the commissioner of revenue, giving such information as may be necessary to determine the amount of the preliminary license tax. A license shall be issued upon payment of the preliminary license tax.

(2) *Year end adjustment.* At the end of the license period and on or before April 15 of the year succeeding the license period or within 90 days after ceasing to engage in the business so licensed, whichever occurs first, the licensee shall make adjustments to the preliminary license tax application, based on the actual gross receipts for the calendar year just ended. Such year end adjustment shall be made in such form or on such return as required by the commissioner of revenue. Any underpayment as determined by the adjustment shall be remitted by the licensee with the adjusted return. Any overpayment by the licensee shall be credited to the preliminary license tax for the succeeding year, or, in the event the licensee has ceased to engage in the business so licensed, paid or refunded to the licensee.

(e) *\$4.00 daily license tax--quarterly returns and payments (2006 and subsequent years).* The \$4.00 per day per rental vehicle portion of the license tax shall be paid and determined as follows for the year 2006 and all subsequent years of this tax:

The license tax shall be paid to the commissioner of revenue quarterly, due and payable on the following dates, for the preceding quarterly periods as listed, based on the actual number of rentals of passenger vehicles per rental day for the quarter calculated at the rate of \$4.00 per day for each and every passenger vehicle rented. The licensee shall make true reports to the commissioner of revenue, on forms prescribed by the commissioner, giving such information as may be necessary to determine the amount of the license tax.

TABLE INSET:

Date License Tax/Report Due	License Period
April 20	1st quarter--January 1 through March 31
July 20	2nd quarter--April 1 through June 30
October 20	3rd quarter--July 1 through September 30
January 20	4th quarter--October 1 through December 31

(f) *\$4.00 daily license tax--transition rule for payments for the year 2005.* The \$4.00 per day per rental vehicle portion of the license tax shall be paid and determined under either of the following two methods for the year 2005. A rental car agency that has paid under the annual payment method, including one that has paid pursuant to prior section

40-166 enacted October 21, 2004, shall not be allowed to change to the quarterly payment method.

(1) *Annual payment method.* The preliminary license application and tax for rentals of passenger vehicles shall be due and payable January 1, 2005, based on the annual total number of rentals of passenger vehicles per rental day for the entire calendar year 2004, calculated at the rate of \$4.00 per day for each and every passenger vehicle rented. At the end of the annual license period, and before March 1, 2006, or within 60 days after ceasing to engage in the business so licensed, whichever occurs first, the licensee shall make adjustments to the preliminary license tax application, based on the actual total number of rentals of passenger vehicles per rental day for the entire calendar year 2005. Such year end adjustments shall be made in such form or on such returns as required by the commissioner of revenue. Any underpayments as determined by the adjustments shall be remitted by the licensee with the adjusted return. Any overpayment by the licensee shall be credited to the license tax for the first quarter of 2006, or, in the event the licensee has ceased to engage in the business so licensed, paid or refunded to the licensee.

(2) *Quarterly payment method.* The 2005 license tax shall be determined the same as under the annual payment method, except that the preliminary license application shall be due before March 1, 2005. The licensee shall pay the 2005 annual license tax, as determined in the preliminary license application, in four equal installments on or before the following dates:

TABLE INSET:

Installment Payment	Date Due
1st installment payment	February 28, 2005
2nd installment payment	May 31, 2005
3rd installment payment	August 31, 2005
4th installment payment	November 30, 2005

The same year end adjustment shall be made as under the annual method, before March 1, 2006, in such form or on such return as required by the commissioner of revenue, and shall be based on the actual total number of rentals of passenger vehicles per rental day for the entire year 2005. Any underpayment as determined by the adjustment shall be remitted by the licensee with the adjusted return. Any overpayment by the licensee shall be credited to the license tax for the first quarter of 2006, or, in the event the licensee has ceased to engage in the business so licensed, paid or refunded to the licensee.

(g) *Examination of books and records.* The commissioner of revenue and his authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the licensee as may be necessary to determine the correctness of such reports.

(h) *Penalties for nonpayment.* Penalties for non-payment or late payment of any license tax due under this section shall be determined pursuant to section 40-25.

Sec. 40-77. Concerts, boxing matches, wrestling matches, prizefights.

(a) *License required.* No person shall give, assist, take part in or permit the giving in any building, hall or other place owned or controlled by him, any professional concert, boxing match, wrestling match or prizefight for which admission is charged, unless, before the commencement of such concert, match or prizefight a license therefor shall be procured.

(b) *License fee.* The license fee required to be paid to the city for such license shall be \$1.00 per \$1,000.00 of the total gross receipts for such concert, match or prizefight.

(c) *Advance deposit.* The city may issue such license in advance of the giving of such concert, match or prizefight, provided the person seeking such license shall place in the hands of the revenue division a cash deposit sufficient to cover the probable amount of such license fee and authorizing the application of such deposit upon such fee at the determination of the proper amount of such fee. Any surplus remaining from such deposit, after the license fee shall have been paid, shall be returned to the person making such deposit, and any deficit arising thereunder after the application of the deposit to the payment of such license fee shall be paid to the city. Each person giving, assisting, taking part in or permitting any building, hall or other place owned or controlled by him to be used for the giving of any such concert, boxing match, wrestling match or prizefight is hereby required, within ten days after the giving of any such concert, match or contest, to pay to the city any deficit arising after the amount of deposit shall have been applied to the payment of such license fee.

Cross references: Amusements and commercial recreation, ch. 12.

Sec. 40-78. Electric light or power businesses--Generally.

(a) *Quarterly license tax imposed.* Every electric light or power company, and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling, leasing or manufacturing, selling, distributing or transmitting electricity for light, heat or power, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city a quarter-annual license tax to be due and payable to the city treasurer on or before January 30, April 30, July 30 and October 30, respectively, of each year, based upon the business done during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30 and September 30. The amount of such quarterly license tax (referred to in this section as the "tax") shall be a sum equal to six percent of the gross receipts derived from the sale of electrical energy within the city during the same preceding period of three months ending as stated in this subsection, for consumption and not for resale; provided, however, that from July 1, 1988, through April 30, 2002, except as set forth in this section, the tax shall not be imposed upon, or with respect to, gross receipts derived from sales of more than \$3,000,000.00 in any quarter to any one user (referred to in this section as "exempt gross receipts"), except for sales to public utilities, which shall remain fully taxable. Ten percent of exempt gross receipts shall be subject to the tax during the period from May 1, 1993, through April 30, 1994, and an additional ten percent of exempt gross receipts shall be subject to the tax during each succeeding 12-month period until exempt gross receipts are fully subject to the tax from and after May 1, 2002, as follows: During the period from May 1, 1994, through April 30, 1995, 20 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 1995, through April 30, 1996, 30 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 1996, through April 30, 1997, 40 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 1997, through April 30, 1998, 50 percent of exempt gross receipts shall be

subject to the tax; during the period from May 1, 1998, through April 30, 1999, 60 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 1999, through April 30, 2000, 70 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 2000, through April 30, 2001, 80 percent of exempt gross receipts shall be subject to the tax; during the period from May 1, 2001, through April 30, 2002, 90 percent of exempt gross receipts shall be subject to the tax. From and after May 1, 1993, however, such tax shall not be imposed upon sales of more than 150,000,000 kilowatt-hours in any quarter to any one user, except for sales to public utilities, which shall remain fully taxable. The sale of electrical energy to an owner or lessee of a building who purchases such electrical energy for resale to the tenants therein shall, for the purposes of this section, be considered as sale for consumption and not for resale; but the resale to the tenants shall not be considered a sale for consumption.

(b) *Reports by licensee.* The licensee shall and he is hereby required to make true and faithful reports under oath to the director of finance and to the commissioner of revenue of the city, in such form as may be prescribed by the director of finance, and containing such information as may be necessary to determine the amounts to which the license tax shall apply, on or before January 30, April 30, July 30 and October 30 of each year, for all gross receipts for the three calendar months ending, respectively, on December 31, March 31, June 30 and September 30.

(c) *Payment of license tax.* Each tax shall constitute payment for the three months beginning on January 1, April 1, July 1 and October 1, respectively, during which months such payment shall be due and payable as prescribed in this section; provided, however, that the acceptance of such tax shall not prejudice the right of the city to collect any additional tax thereafter found to be due.

(d) *Examination of records; audits.* The city, the director of finance thereof and his assistants, and any public accountants selected by the city council or by the city manager, shall have the right, at all reasonable times during business hours, to make such examinations and inspections of the books of the licensee as may be necessary to determine the correctness of such reports. The originals of all records, books, documents, accounts, contracts and vouchers, showing accurately the true condition of the gross income and business of the licensee, shall be kept in his office in the city, and the licensee shall not remove such books, records and documents from the city except when necessary for temporary use or when temporarily required to do so by legal process, and, in any such case of temporary use or process, such books, records and documents shall be promptly returned at the conclusion thereof to the office of the licensee in the city. The city shall have the right, at its own expense, to employ the same accountants who make annual audit of the books, records and accounts and the business of the licensee to audit, at the same time, its accounts and records and certify as to correctness of any payments due and payable by the licensee to the city.

(e) *Penalty for late payment of license tax.* For each and every month, or part thereof, any such license tax remains unpaid, after the license tax becomes due and payable, there shall be added to such license tax, as a penalty for such delayed payment, ten percent of the amount of such license tax for the first month, or part thereof, the license tax is unpaid, and for each and every month thereafter two percent of the amount of such license tax until the tax is fully paid.

(f) *Authority to trim trees.* Permission is hereby granted to the licensee to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the licensee, all such trimming to be done under the supervision and direction of any city official to whom such duties have been or may be delegated.

(g) *Scope of section.* Nothing contained in this section shall be construed as giving to a licensee any exclusive privileges, nor shall it affect any prior or existing rights of a licensee to maintain an electric plant within the city.

(h) *Applicability of license tax to additional charges imposed for nonpayment of electric bill.* Where an additional amount is added for failure to make payment of any electric bill within a prescribed period, the license tax shall be based on the total amount actually paid, as part of the gross receipts of the licensee.

(Code of Gen. Ords. 1967, § 21.439; Ord. No. 35166, 4-19-68; Ord. No. 35606, 7-19-68; Ord. No. 58046, 6-20-85; Ord. No. 61772, 11-24-87; Ord. No. 930360, 4-22-93; Ord. No. 930580, 6-3-93)

Sec. 40-79. Same--Emergency license tax.

(a) *Imposition; amount.* Every electric light or power company, and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling, leasing or managing any electric plant or system generating, manufacturing, selling, distributing or transmitting electricity for light, heat or power shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinances, pay an additional emergency license tax in a sum equal to three percent of the gross receipts derived from all residential sales per month in excess of \$10.00 per month each residence, four percent of the gross receipts derived from commercial sales, and four percent of the first \$4,200.00 of the gross receipts per month derived from sales to each industrial user where the major use of such industrial user is to change raw or unfinished materials into other forms or products and not for space heating and lighting purposes within the city, such license tax to be payable monthly, the first such payment being due and payable no later than June 30, 1981, and no later than the last day of the month thereafter, based on the prior month's gross receipts, but otherwise based on the same computations and subject to the same penalties as provided in section 40-78, so long as this section remains in effect.

(b) *Scope of section.* No occupation license, however, shall be issued to any electric light or power company until and unless such company shall have paid to the city the full amount of the normal license tax of six percent of the gross receipts of the licensee, under section 40-78, in addition to the emergency license tax imposed by this section.

(Code of Gen. Ords. 1967, § 21.440; Ord. No. 33851, 4-14-67; Ord. No. 36638, 4-18-69; Ord. No. 38105, 4-17-70; Ord. No. 39510, 4-16-71; Ord. No. 41067, 4-21-72; Ord. No. 42557, 4-19-73; Ord. No. 43976, 4-19-74; Ord. No. 45270, 4-18-75; Ord. No. 46456, 4-9-76; Ord. No. 47663, 4-15-77; Ord. No. 48985, 4-14-78; Ord. No. 52571, 4-10-81)

Sec. 40-80. Gas businesses--Generally.

(a) *Quarterly license tax imposed.* Every gas company, and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city a quarter-annual license tax to be due and payable to the city treasurer on or before January 30, April 30, July 30 and October 30, respectively, of each year, based upon the business done during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30 and September 30. The amount of such quarterly license tax shall be a sum equal to six percent of the gross

receipts derived from the sale of gas sold and delivered, during the preceding period of three months ending as stated in this subsection, to consumers within the city for all purposes whatsoever; provided, however, that from and after July 1, 1988, to and including April 30, 1993, the tax shall not be imposed on the gross receipts derived from sales of more than \$1,750,000.00 in any quarter to any one user, except for sales to public utilities, which shall remain fully taxable. Effective May 1, 1993, and thereafter, the amount of such quarterly license tax shall be a sum equal to six percent of the gross receipts derived from the sale of gas sold and delivered, during the preceding period of three months ending as stated in this subsection, to consumers within the city for all purposes whatsoever; provided, however, that from and after May 1, 1993, such tax shall not be imposed on sales of more than 1,750,000 m.c.f. of gas, in any quarter to any one user, except for sales to public utilities, which shall remain fully taxable. Where an additional amount is added for failure to make payment of any gas bill within a prescribed period, the license tax shall be based on the total amount actually paid as part of the gross receipts of the licensee.

(b) *Reports by licensee.* The licensee shall and he is hereby required to make true and faithful reports under oath to the director of finance and to the commissioner of revenue of the city, in such form as may be prescribed by the director of finance, and containing such information as may be necessary to determine the amounts to which the license tax shall apply, on or before January 30, April 30, July 30 and October 30 of each year, for all gross receipts for the three calendar months ending, respectively, on December 31, March 31, June 30 and September 30.

(c) *Payment of license tax.* Each tax shall constitute payment for the three months beginning on January 1, April 1, July 1 and October 1, respectively, during which months such payment shall be due and payable as prescribed in this section; provided, however, that the acceptance of such tax shall not prejudice the right of the city to collect any additional tax thereafter found to be due.

(d) *Examination of records; audits.* The city, the director of finance thereof and his assistants, and any public accountants selected by the city council or by the city manager, shall have the right, at all reasonable times during business hours, to make such examinations and inspections of the books of the licensee as may be necessary to determine the correctness of such reports; and the originals of all records, books, documents, accounts, contracts and vouchers, showing accurately the true condition of the gross income and business of the licensee, shall be kept in his office in the city. The licensee shall not remove such books, records and documents from the city except when necessary for temporary use or when temporarily required to do so by legal process, and in any such case of temporary use or process such books, records and documents shall be promptly returned at the conclusion thereof to the office of the licensee in the city. The city shall have the right, at its own expense, to employ the same accountants who make annual audit of the books, records and accounts of the business of the licensee to audit, at the same time, its accounts and records and certify as to correctness of any payments due and payable by the licensee to the city.

(e) *Penalty for late payment of license tax.* For each and every month, or part thereof, any such license tax remains unpaid, after the license tax becomes due and payable, there shall be added to such license tax, as a penalty for such delayed payment, ten percent of the amount of such license tax for the first month, or part thereof, the license tax is unpaid, and for each and every month thereafter two percent of the amount of such license tax until the license tax is fully paid.

(Code of Gen. Ords. 1967, § 21.441; Ord. No. 35170, 4-19-68; Ord. No. 35605, 7-19-68; Ord. No. 36057, 11-15-68; Ord. No. 58047, 6-20-85; Ord. No. 61773, 11-24-87)

Cross references: Gas and oil, ch. 32.

Sec. 40-81. Same--Emergency tax.

(a) *Imposition; amount.* Every gas company and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay an additional emergency license tax in a sum equal to three percent of the gross receipts derived from all residential sales per month in excess of \$10.00 per month each residence, four percent of the gross receipts derived from commercial sales, and four percent of the first \$725.00 per month of gross receipts derived from sales to each industrial user where the major use of such industrial user is to change raw or unfinished materials into other forms or products and not for space heating and lighting purposes within the city, such license tax to be payable monthly, the first payment being due and payable no later than June 30, 1981, and no later than the last day of each month thereafter, based on the prior month's gross receipts, but otherwise based on the same computations and subject to the same penalties as provided in section 40-80, so long as this section remains in effect.

(b) *Scope of section.* No occupation license, however, shall be issued to any gas company until and unless such company shall have paid to the city the full amount of the normal license tax of six percent of the gross receipts of the licensee, under section 40-80, in addition to the emergency license tax imposed by this section.

(Code of Gen. Ords. 1967, § 21.442; Ord. No. 33850, 4-14-67; Ord. No. 36639, 4-18-69; Ord. No. 38106, 4-17-70; Ord. No. 39540, 4-16-71; Ord. No. 41069, 4-21-72; Ord. No. 42555, 4-19-73; Ord. No. 43975, 4-19-74; Ord. No. 45271, 4-18-75; Ord. No. 46455, 4-9-76; Ord. No. 47664, 4-15-77; Ord. No. 48986, 4-14-78; Ord. No. 52572, 4-10-81)

Sec. 40-82. Heating companies--Generally.

(a) *Quarterly license tax imposed.* Every heating company and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing, distributing and selling, for distribution or distributing hot or cold water, steam or currents of hot or cold air for motive power, heating, cooking or for any public use or service, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city a quarter-annual license tax to be due and payable in advance to the city treasurer on or before January 30, April 30, July 30 and October 30, respectively, of each year, based upon the gross receipts of the licensee during the preceding period of three calendar months ending respectively, on December 31, March 31, June 30 and September 30. The amount of such quarterly license tax shall be a sum equal to six percent of the gross receipts derived from the operations of the licensee within the city during the preceding period of three months ending as stated in this subsection. The sale of steam to an owner or lessee of a building, who purchases such steam for resale to the tenants therein, shall, for the purposes of this section, be considered as a sale for consumption and not for resale, but the resale to the tenant shall not be considered as a sale for consumption. The term "gross receipts," as used in this section, shall mean all moneys charged and collected by the licensee from the manufacture, distribution or sale of the products or services of the licensee, or derived from the operations of the business of the licensee, before any deductions are made

therefrom by the licensee for any expenses or changes of any kind. The term "gross receipts" shall not include revenues derived from the sale of steam delivered to a customer at the generating facilities of the licensee.

(b) *Reports by licensee.* The licensee shall make true and faithful reports under oath to the director of finance and to the commissioner of revenue in such form as may be prescribed by the director of finance, and containing such information as may be necessary to determine the amounts to which the license tax shall apply, on or before January 30, April 30, July 30 and October 30 of each year, for all gross receipts for the three calendar months ending, respectively, on December 31, March 31, June 30 and September 30.

(c) *Payment of license tax.* Each tax so paid shall constitute payment for the license to do business for the three months beginning on January 1, April 1, July 1 and October 1, respectively, during which months such payment shall be due and payable as prescribed in this section; provided, however, that the acceptance of such tax shall not prejudice the right of the city to collect any additional tax thereafter found to be due.

(d) *Examination of records; audits.* The city, the director of finance thereof and his assistants, and any public accountants selected by the city council or by the city manager shall have the right, at all reasonable times during business hours, to make such examinations and inspections of the books of the licensee as may be necessary to determine the correctness of such reports; and the originals of all records, books, documents, accounts, contracts and vouchers, showing accurately the true condition of the gross income and business of the licensee, shall be kept in his office in the city, and the licensee shall not remove such books, records and documents from the city except when necessary for temporary use or when temporarily required to do so by legal process. In any such case of temporary use or process, such books, records and documents shall be promptly returned at the conclusion thereof to the office of the licensee in the city. The city shall have the right, at its own expense, to employ the same accountants who make annual audit of the books, records and accounts of the business of the licensee to audit, at the same time, its accounts and records and certify as to correctness of any payments due and payable by the licensee to the city.

(e) *Effect of annexation on calculation of license tax.* In the event of the extension of the corporate limits of the city, the first license tax payment thereafter made by the licensee shall include gross receipts for the previously applicable period derived from the annexed area.

(f) *Penalty for late payment of license tax.* For each and every month, or part thereof, any such license tax remains unpaid, after the license tax becomes due and payable, there shall be added to such license tax, as a penalty for such delayed payment, ten percent of the amount of such license tax for the first month, or part thereof, the tax is unpaid, and for each and every month thereafter two percent of the amount of such license tax until the license tax is fully paid.

(g) *Scope of section.* Nothing contained in this section shall be construed as giving to a licensee any exclusive privileges.

(h) *Applicability of license tax to additional charges imposed for nonpayment of gas bill.* Where an additional amount is added for failure to make payment of any bill within a prescribed period, the license tax shall be based on the total amount actually paid, as part of the gross receipts of the licensee.

(Code of Gen. Ords. 1967, § 21.443; Ord. No. 35168, 4-19-68)

Sec. 40-83. Same--Emergency tax.

(a) *Imposition; amount.* Every heating company and every corporation, company, association, joint stock company or association, partnership and person, and their

lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing, distributing and selling for distribution or distributing hot or cold water steam or currents of hot or cold air for motive power, heating, cooking, or for any public use or service, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay an additional emergency license tax in a sum equal to four percent of the gross receipts derived from such operations of the licensee within the city, such license tax to be payable monthly, with the first such payment being due and payable no later than July 31, 1978, and no later than the last day of each month thereafter, based on the prior month's gross receipts, but otherwise based on the same computations and subject to the same penalties as provided in section 40-82, so long as this section remains in effect.

(b) *Scope of section.* No occupation license, however, shall be issued to any heating company until and unless such company shall have paid to the city the full amount of the normal license tax of six percent of the gross receipts of the licensee under section 40-82, in addition to the emergency license tax imposed by this section.

(Code of Gen. Ords. 1967, § 21.444; Ord. No. 33852, 4-14-67; Ord. No. 36640, 4-18-69; Ord. No. 38107, 4-17-70; Ord. No. 39477, 4-16-71; Ord. No. 41068, 4-21-72; Ord. No. 42556, 4-19-73; Ord. No. 43977, 4-19-74; Ord. No. 45272, 4-18-75; Ord. No. 46454, 4-9-76; Ord. No. 47665, 4-15-77; Ord. No. 48987, 4-14-78)

Sec. 40-84. Same--Alternative tax rates.

(a) Anything to the contrary contained in section 40-82(a) notwithstanding, effective January 1, 1990, the rate of license tax imposed in section 40-82 shall be 2.4 percent of the gross receipts derived from the operations of the licensee within the city.

(b) Anything to the contrary contained in section 40-83 notwithstanding, effective January 1, 1990, the rate of additional emergency license tax imposed in section 40-83 shall be 1.6 percent of the gross receipts derived from such operations of the licensee within the city.

(c) This section shall become effective on January 1, 1990, only if prior thereto the city shall have received written acceptance by a licensee of a franchise granted by the city in such form as shall be acceptable to the city, and such franchise licensee and such written acceptance by the franchise licensee shall be filed in the office of the director of records.

(d) If this section becomes effective, an occupation license shall be issued to any franchise licensee which shall have paid to the city the full amount of the normal license tax of 2.4 percent and the additional emergency license tax of 1.6 percent of the gross receipts of the licensee under this section.

(e) The alternative tax rates provided for in this section shall be imposed in lieu of the tax rates set forth in section 40-82 and section 40-83; and, so long as this section is in effect, the city shall not impose the tax rates set forth in sections 40-82 and 40-83.

(Code of Gen. Ords. 1967, § 21.444.1; Ord. No. 64314, 6-29-89)

Sec. 40-85. Telephone businesses--Generally.

(a) *Quarterly license tax imposed.* Every telephone company and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, leasing, controlling or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire, shall pay to the city a license tax

which shall be a sum equal to six percent of the gross receipts derived and collected from its or their customers located within the city, and any services there provided, except such receipts as represent charges for message rate toll, or long distance telephone service, charges for message rate interzone telephone service, charges for exclusive interstate service of any kind, charges for Morse, telegraph, television or radio program transmission facilities, or for other services furnished exclusively and permanently in connection with services extending beyond the boundaries of the city, charges for the billing and collecting for telegrams, charges for the sale of and advertising in telephone directories, charges for the rental of plant facilities or other property not currently used by any such company in furnishing its telephone services, and charges which combine both receipts which are taxed in this section and which are excepted in this section in all cases in which the demonstrable cost to any such telephone company in making a separation between the revenues taxed and those excepted shall exceed the evident revenue to be derived therefrom by the city under this section. Such license tax shall be paid quarter-annually in advance and shall be due and payable to the city treasurer on or before January 31, April 30, July 31 and October 31, respectively, of each year, based upon the gross receipts collected during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30 and September 30. In the event of the extension of the corporate limits of the city, the first license tax payment thereafter made by the licensee shall include gross receipts for the previously applicable period derived from the annexed area.

(b) *Penalty for late payment of license tax.* For each and every month, or part thereof, any such license tax remains unpaid, after the tax becomes due and payable, there shall be added to such license tax, as a penalty for such delayed payment, ten percent of the amount of such license tax for the first month, or part thereof, the tax is unpaid, and for each and every month thereafter two percent of the amount of such license tax until the tax is fully paid.

(c) *Furnishing of ducts and pin space to city.* As part of the consideration for a license, any licensee shall permit the city to use, free of charge, one duct in all of its conduits, now laid or hereafter to be laid, and to use the necessary pins upon any of the top crossarms of its poles, now erected or hereafter to be erected, for such of its municipal wires as are now used or may hereafter be used exclusively in the operation of the city's police, signal or fire alarm system; provided, however, that the city shall not use any such duct spaces or pins upon any crossarms for power transmission purposes, nor use any circuits in such ducts or upon such crossarms to regularly carry voltage in excess of 130 volts for signal purposes, nor otherwise use any such circuits so as to interfere with telephone communication or with the wires or equipment on such poles or in such conduits; provided, further, that the licensee shall not use its duct spaces or its crossarms, or otherwise so use the same as to interfere with the operation of the city's properly designed and constructed police, fire alarm or signal wires. If the business of the licensee requires the use of the duct space reserved for but not used by the city, upon notice to the city, the licensee may use such space; provided that the licensee thereafter, upon adequate notice from the city, shall

furnish such wire facilities for the city as the city shall designate, at the commercial rates which may be then currently applicable; but, if such duct space is being used by the city, the licensee may, by furnishing to the city equivalent wire facilities without charge to the city, use such space, and the city shall receive the net salvage from such cable or plant as is displaced by the licensee, and the licensee shall furnish such additional wire facilities as may be then designated by the city, charging the city therefor at the commercial rates then currently applicable.

(d) *Authority to trim trees and foliage.* Permission is hereby granted to any licensee to trim trees and foliage upon the overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees and foliage from coming in contact with the wires and cables of the licensee, all such trimming to be done under the supervision and direction of any city official to whom such duties have been or may be delegated.

(e) *Attachment of light or power wires to equipment of licensee.* Nothing contained in this section shall be construed to require or permit any electric light or power wire attachments by the city or for the city to any of the property of the licensee. If light or power attachments are designed by the city or for the city, then a separate noncontingent agreement shall be a prerequisite to such attachments.

(f) *Reports by licensee.* The licensee shall and is hereby required to make true and faithful reports under oath to the director of finance and to the commissioner of revenue of the city, in such form as may be prescribed by the director of finance, and containing such information as may be necessary to determine the amounts to which the license tax shall apply, on or before January 31, April 30, July 31 and October 31 of each year, respectively, for all gross receipts for the three calendar months last preceding, ending respectively on December 31, March 31, June 30 and September 30.

(g) *Payment of license tax.* Each license tax so paid shall constitute payment for the three months beginning on January 1, April 1, July 1 and October 1, respectively, as to which three-month periods, respectively, such payment shall be due and payable as prescribed in this section; provided, however, that the acceptance of such taxes shall not prejudice the right of the city to collect any additional taxes thereafter found to be due. If it becomes impossible or impracticable for any licensee to include in any quarter-annual payment of tax all of such gross receipts of such three-month period, the licensee shall pay the estimated amount of the tax and include the correct amount by adjusting the next succeeding quarter-annual tax payment to the city, without penalty.

(h) *Examination of records; audits.* The city, the director of finance thereof and his assistants, and any public accountants selected by the city council or by the city manager, shall have the right, at all reasonable times during business hours, to make such examinations and inspections of the books of the licensee as may be necessary to determine the correctness of such reports. The licensee shall make available such books and records as may be required by the city, or its representatives, to determine the correctness of the payments specified in this section. The city shall have the right, at its own expense, to employ the same

accountants who make the annual audit of the books, records and accounts of the business of the licensee, to audit, at the same time, its accounts and records and certify as to the correctness of any payments due and payable by the licensee to the city.

(i) *Scope of section.* Nothing contained in this section shall be construed as giving to a licensee any exclusive privileges, nor shall it affect any prior or existing rights of any licensee to maintain a telephone system within the city. Payments made and to be made and the furnishing of ducts and pin space by the licensee as provided for in this section are in lieu of all other charges, extractions, rentals and payments in kind imposed by the city under any telephone franchise or telephone regulatory ordinance heretofore passed, subject to a final accounting for any amounts due the city thereunder.
(Code of Gen. Ords. 1967, § 21.456; Ord. No. 35172, 4-19-68)

Sec. 40-86. Same--Emergency tax.

(a) *Imposition; amount.* Every telephone company and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, leasing, controlling or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city an emergency license tax as follows: an emergency license tax of a sum equal to three percent of the gross receipts derived for service rendered to residential users within the city, at the same times, for the same periods, in advance, but otherwise based upon the same computations and subject to the same conditions and penalties as provided in section 40-85; and an emergency license tax of a sum equal to four percent of the gross receipts derived from such operations of the licensee within the city for services rendered to commercial, industrial and all other users of such service, at the same times, for the same periods, in advance, but otherwise based upon the same computations and subject to the same conditions and penalties as provided in section 40-85.

(b) *Payment.* The first payment under this section to the city will be due and payable on or before July 31, 1981. No occupation license, however, shall be issued to any telephone company until and unless such company shall have paid to the city the full amount of the normal license tax of six percent of the gross receipts of the licensee under section 40-85, in addition to the emergency license tax imposed by this section.

(Code of Gen. Ords. 1967, § 21.457; Ord. No. 33853, 4-14-67; Ord. No. 36641, 4-18-69; Ord. No. 38104, 4-17-70; Ord. No. 39509, 4-16-71; Ord. No. 41070, 4-21-72; Ord. No. 42554, 4-19-73; Ord. No. 43974, 4-19-74; Ord. No. 45273, 4-18-75; Ord. No. 46457, 4-9-76; Ord. No. 47666, 4-15-77; Ord. No. 48988, 4-14-78; Ord. No. 52604, 4-10-81)

Sec. 40-87. Water businesses.

(a) *Quarterly license fee imposed.* Every water company and every corporation, company, association, joint stock company or association, partnership and person, and

their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing, leasing or controlling a water system for the distribution, sale or furnishing of water shall, in addition to all other taxes, payments, or requirements now or hereafter required by law or city ordinance, pay to the city a quarter-annual license fee to be due and payable to the city treasurer on or before January 30, April 30, July 30 and October 30, respectively, of each year, based upon the business done during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30 and September 30. The amount of such quarterly license fee shall be a sum equal to six percent of the gross receipts derived from the sale of all water sold and delivered, during the preceding period of three months ending as stated in this subsection, to consumers within the city for all purposes whatsoever. Where an additional amount is added for failure to make payment of any water bill within a prescribed period, the license fee shall be based on the total amount actually paid as part of the gross receipts of the licensee.

(b) *Reports by licensee.* The licensee shall and is hereby required to make true and faithful reports under oath to the director of finance and to the commissioner of revenue in such form as may be prescribed by the director of finance and containing such information as may be necessary to determine the amounts to which the license tax shall apply, on or before January 30, April 30, July 30 and October 30 of each year, for all gross receipts for the three calendar months ending, respectively, on December 31, March 31, June 30 and September 30.

(c) *Payment of license fee.* Each fee so paid shall constitute payment for the three months beginning on January 1, April 1, July 1 and October 1, respectively, during which months such payments shall be due and payable as prescribed in this section; provided, however, that the acceptance of such fees shall not prejudice the right of the city to collect any additional fee thereafter found to be due; and provided further that, if the licensee shall pay a sum greater than is due upon its gross receipts for any period, by reason of it being impossible to determine at the time the fees for such period are due the amount of gross receipts to which the license tax for such period legally applies, such licensee may deduct such overpayment from and be given credit for it against the amount of license tax required to be paid by it for the period during which it first becomes possible to determine the amount of gross receipts to which the license tax legally applies for the period as to which such overpayment was made, and, if such overpayment exceeds the amount due from the licensee for the period during which it becomes possible to compute it, then such licensee may take credit against payments due from it for periods immediately following until it has received credit for the total amount of such overpayment.

(d) *Examination of records; audits.* The city, the director of finance thereof, and his assistants, and any public accountants selected by the city council or by the city manager, shall have the right, at all reasonable times during business hours, to make such examination and inspection of the books of such licensee as may be necessary to determine the correctness of such reports. The originals of all records, books, documents, accounts, contracts and vouchers, showing accurately the true condition of the gross income and business of the licensee, shall be kept in the office, and the licensee shall not remove such books, records and documents from his office except when necessary for temporary use, or when temporarily required to do so by legal process, and in any such case of temporary use or process such books, records and documents shall be promptly returned at the conclusion thereof to the office of the licensee. The city shall have the right, at its own expense, to employ the same accountants who make the annual audit of the books, records and accounts of the

business of the licensee, to audit, at the same time, his accounts and records and certify as to the correctness of any payments due and payable by the licensee to the city.

(e) *Penalty for late payment of license fee.* For each and every month, or part thereof, any such license fee remains unpaid after the fee becomes due and payable, there shall be added to such license fee, as a penalty for such delayed payment, ten percent of the amount of such license fee for the first month or part thereof the fee is unpaid, and for each and every month thereafter two percent of the amount of such license fee until the fee is fully paid; provided, however, any water system owned and operated by an incorporated municipality is exempted from the provisions of this section.

(Code of Gen. Ords. 1967, § 21.466)

Cross references: Water, ch. 78.

Sec. 40-88. Reduction in emergency license tax rates.

(a) The emergency license tax percentage rates imposed on residential sales gross receipts contained in sections 40-79 and 40-86, shall be reduced by one percent on each of the following dates: November 1, 2000, May 1, 2002 and May 1, 2003.

(b) Effective January 5, 2001, the emergency license tax imposed on residential gas sales gross receipts contained in section 40-84 shall be eliminated.

(Ord. No. 001247, § 1, 9-21-00; Ord. No. 001713, § 1, 1-4-01)

Secs. 40-89—40-190. Reserved.

ARTICLE III. PUBLIC MARKETS*

***Charter references:** Power of city to provide for and regulate market places, § 1(17).

Cross references: Food and food products, ch. 30; power of director of health to order changes in places frequented by public, § 34-3; hawkers and peddlers, § 50-2 et seq.; streets, sidewalks and public places, ch. 64.

Sec. 40-191. Municipal market established; definitions.

(a) All that area bounded and described as follows is hereby designated and established as the municipal market:

Commencing at the north line of Fifth Street and the east line of Main Street; thence east to the west line of Grand Avenue; thence north to the south line of Third Street; thence west to the east line of Main Street; thence south to the north line of Fifth Street to the point of beginning; except a tract 40 feet wide by 135 feet deep located at the northeast corner of Fifth and Walnut Streets, known as the south 40 tax of Lot 285, Block 29, Old Town Addition;

Also a tract of land described as Lots 165, 166, 167 and 168, Block 17, Old Town, an Addition in Kansas City, Missouri.

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

(1) *Director* means the director of finance.

(2) *Property manager* means the individual or entity designated under the terms of article XXX, section 30.14, of the City Market Lease, Development and Management Agreement by and between the Planned Industrial Expansion Authority of Kansas City, Missouri, and River Market Venture I, L.P., dated September 1, 1989 (the municipal market lease).

(3) *Stall* means a rented space not physically located within the limits of a permanent building and not covered by the definition of a stand.

(4) *Stand* means space located within or outside the permanent buildings subject to the municipal market lease.

(Code of Gen. Ords. 1967, § 21.349; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-192. Additional public markets.

The council may from time to time establish in addition to the municipal market such other public markets as the convenience and necessities of the city may require. The term "municipal market" or "market," as used in this article, shall mean the presently existing market and such as may hereafter be established.

(Code of Gen. Ords. 1967, § 21.350; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-193. Duties of director.

It shall be the duty of the director:

(1) *Supervision of municipal market.* To exercise general supervision over the municipal market and to enforce the regulations and requirements established by the city for the operation and management thereof.

(2) *Examination of merchandise.* To examine the quality of all articles offered or exposed for sale in the market, and to notify a health department inspector to examine such articles that are apparently blown, unsound, diseased, impure and unwholesome, whenever he sees such conditions existing.

(3) *Removal of prohibited or unauthorized articles.* To require that all articles offered for sale which are prohibited by ordinance, or which are exposed for sale without the vendor having proper authority therefor by ordinance, be removed from the market.

(Code of Gen. Ords. 1967, § 21.352; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-194. Obstructing director.

No person shall resist or obstruct the director, or any employees of the department of finance vested by him with responsibility, in the execution of their duties.

(Code of Gen. Ords. 1967, § 21.353; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-195. Duties of property manager.

The property manager shall be primarily responsible for arranging, supervising and coordinating the performance of all services necessary in connection with the operation and management of the municipal market during the term of the municipal market lease. Without limiting the generality of the such provisions, the property manager's duties shall include:

(1) Solicitation, negotiation and execution of maintenance, repair, security or other agreements or contracts with any persons, the employment of which is necessary for the efficient operation and management of the municipal market.

(2) Use of reasonable efforts to collect, receive and receipt for, and deposit, all rentals and other payments due and payable from subtenants under their respective leases.

(3) Instituting and supervising the disposition of any and all legal actions or proceedings required for the collection of rents or other assessments from subtenants.

(4) Preparing and carrying out a program of maintenance and repair for the municipal market, including such normal capital replacements and improvements and remodeling as may from time to time be necessary in the ordinary course of business in order to maintain the municipal market in accordance with the normal standards for comparable projects.

(5) Causing the municipal market to be provided with appropriate janitorial, security, window cleaning, trash removal and other services.

(6) Preparing appropriate rules and regulations, in cooperation with the city, for the use and occupancy of the municipal market by subtenants and other persons and for security requirements with respect thereto, including but not limited to rules with respect to the hours of operation thereof, and using reasonable efforts to pursue the enforcement of such rules and regulations.

(7) Maintaining, at the office of property manager within the municipal market, or at such other place in the city as the property manager shall in writing designate, proper books and records prepared in accordance with generally accepted accounting principles, including insurance policies, correspondence, receipted bills and vouchers, and all other documents and papers pertaining to the municipal market or the operation thereof. The property manager shall, upon reasonable prior notice from the director, make any or all of such books and records available at the place at which such books and records are maintained for inspection by the director or any person or entity designated by the director.

(8) Causing to be prepared and filed the necessary forms for employee benefits, unemployment insurance, withholding and social security taxes, and all other forms

relating to employment of any employees of the property manager for the municipal market as required by any federal, state or municipal authority.

(9) Doing or causing to be done all such acts or things in or about the municipal market as shall be reasonably necessary or desirable to comply with any and all orders or regulations affecting the municipal market place by any federal, state or municipal authority having jurisdiction over the municipal market, and to comply with orders of any board of fire underwriters or other similar body, and notifying the landlord of any noncompliance with or violations of any such orders or regulations of which the property manager has actual knowledge.

(10) Use of reasonable efforts to comply with those duties and obligations of the landlord under the subleases (exclusive of those duties and obligations which are specifically not delegated to the property manager under this article) unless the property manager is unable to so comply by reason of any act or failure to act by the landlord.

(Code of Gen. Ords. 1967, § 21.354; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-196. Disorderly conduct.

No person within the confines of the municipal market shall commit any lewd, lascivious or disorderly act, or make any loud or boisterous noise, or use any profane or vulgar language, or stand about without business and obstruct the passageways of any market buildings or places, or do any act which is calculated to lead to a breach of the peace, or which tends to disturb good order and decorum.

(Code of Gen. Ords. 1967, § 21.355; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-197. Sale of farm products generally; sale of animals.

No farmer or gardener, or their agent or employee, shall sell or offer to sell anything at the municipal market except as has been raised or produced on his own farm or garden or is a product thereof. The sale of animals belonging to the family Felidae, commonly known as cats, and the family Canidae, commonly known as dogs, is prohibited at all times. No person engaged in the sale or handling of live animals or fowl, when permitted, shall at the same time engage in the sale or handling of other foodstuffs.

(Code of Gen. Ords. 1967, § 21.356; Ord. No. 41412, 8-18-72; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Cross references: Animals, ch. 14.

Sec. 40-198. Exhibition of articles deemed offer to sell.

Whenever any article shall be exhibited in the municipal market, as if the article were intended for sale, whether sold or not, or directly offered for sale or not, such exhibition shall be held to be exposure of the article for sale and an offer to sell within the meaning of this article.

(Code of Gen. Ords. 1967, § 21.357; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-199. Slaughtering or cleaning animals.

No person shall, within the confines of the municipal market, kill or slaughter or clean any fish, poultry, game or other animals therein, except with the permission of and under such regulations as the property manager may prescribe in addition to the ordinances governing slaughtering and handling of such foods.

(Code of Gen. Ords. 1967, § 21.358; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Cross references: Animals, ch. 14; meat, § 30-111 et seq.

Sec. 40-200. Deposit of garbage or refuse.

No person shall lay, throw or deposit any garbage, dirt, filth, dung or offal within the confines of the municipal market.

(Code of Gen. Ords. 1967, § 21.359; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Cross references: Littering, § 62-81 et seq.

Sec. 40-201. Location for sales from vehicles.

Any farmer, gardener or other person selling or offering for sale from trucks, wagons, carts or other vehicles within the municipal market any fruits, vegetables, butter, eggs, cheese, meats, game, poultry and foodstuff of any description shall stand such vehicles only in the places established therefor, and where the property manager or his representative shall direct.

(Code of Gen. Ords. 1967, § 21.360; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-202. Removal of vehicle after sale of commodities.

Whenever any person shall have sold or disposed of the commodities brought by him to the municipal market for sale, he shall remove his vehicle from the municipal market forthwith.

(Code of Gen. Ords. 1967, § 21.361; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-203. Use of stand or stall by more than one person.

No person renting any stall or stand in the municipal market, either by the day or month, shall permit the stand to be used or occupied by any other person except with the permission of the property manager.

(Code of Gen. Ords. 1967, § 21.362; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-204. Authority to prescribe additional rules and regulations.

The property manager, subject to the approval of the director, shall make all needful rules and regulations concerning the designation, location, arrangement and removal of all trucks, wagons, carts and other vehicles used or brought within the municipal market; and he shall designate the hours for doing business in the municipal market, and for opening and closing the business.

(Code of Gen. Ords. 1967, § 21.363; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-205. Printing and posting of rules and regulations.

Rules and regulations pertaining to the operation of the municipal market shall be printed or typed by the property manager, and he shall post the rules and regulations in conspicuous places about the market.

(Code of Gen. Ords. 1967, § 21.364; Ord. No. 47961, 8-4-77; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89)

Sec. 40-206. Schedule of rents and charges.

It shall be the duty of the property manager to periodically recommend and file with the director a proposed schedule of yearly rents and charges for the stands, stalls, spaces, privileges and accommodations at the municipal market. Such initial schedule of yearly rents and charges as described in appendix A attached to the ordinance from which this section is derived, and incorporated in this section by reference, is hereby adopted. The council shall consider future adjustments to the schedule of rents and

charges as recommended by the director and as amended from time to time by the council.

(Code of Gen. Ords. 1967, § 21.365; Ord. No. 47961, 8-4-77; Ord. No. 61557, 10-1-87; Ord. No. 64553, 8-31-89; Ord. No. 910715, 9-12-91)

Sec. 40-207. Effective date of article.

This article shall take effect September 15, 1989, or the closing date of the taxable lease revenue bonds, Series 1989, provided for by the terms of article III, section 3.4 of the City Market Site Lease Between City of Kansas City, Missouri, and the Planned Industrial Expansion Authority of Kansas City, Missouri, dated September 1, 1989, that will finance the acquisition, construction and installation of improvements to the market as provided for therein, whichever occurs later.

(Code of Gen. Ords. 1967, § 21.367; Ord. No. 64553, 8-31-89)

Secs. 40-208--40-240. Reserved.

ARTICLE IV.

Secs. 40-241—40-290. Reserved.

ARTICLE V. VEHICLE LICENSES*

***Cross references:** Traffic and vehicles, ch. 70; driver's and vehicle licenses, § 70-131 et seq.

Sec. 40-291. Definitions.

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

Motor vehicle means any self-propelled vehicle not operated exclusively upon rails or tracks, except traction engines, fire engines, fire wagons, police motors, police wagons or police ambulances.

(Code of Gen. Ords. 1967, § 21.409)

Cross references: Definitions and rules of construction generally, § 1-10.

Sec. 40-292. License required; tax generally.

(a) Every person residing in the city who is the owner of a motor vehicle, except a motor vehicle used exclusively outside the city, shall, before permitting the operation of such vehicle upon the streets of the city, procure a license thereon for each motor vehicle so owned. The amount of the license tax to be paid therefor shall be \$12.50 for each motor vehicle or commercial motor vehicle.

(b) The term "owner," as used in this section, shall include any person owning or renting a motor vehicle, or having the exclusive use thereof under lease or otherwise, for a period greater than ten days successively.

(Code of Gen. Ords. 1967, § 21.410; Ord. No. 920379, 5-21-92)

Annotation--City could not enact ordinance levying motor vehicle license tax against operator of motor vehicle in city, whether owner or not, but only license tax permissible under enabling act is one levying tax against owner of motor vehicle who is resident of

municipality, and who uses or operates motor vehicle within municipality. City of Frankford v. Davis, 348 S.W.2d 553, construing RSMo 301.340.

Sec. 40-293. Collection of license tax by counties.

The license tax provided for in section 40-292 shall be paid annually and included as an annual charge on bills issued for personal property taxes, by the county collector. The county collector may collect delinquent receipts of such motor vehicle license taxes, and penalties thereon, in the same manner and form as provided by law for the collection of delinquent ad valorem property taxes.

(Ord. No. 991372, § 1, 11-4-99)

Editor's note: Ord. No. 991372, § 1, adopted November 4, 1999, amended the Code by repealing former §§ 40-293--40-303, and adding a new § 40-293. Former §§ 40-293--40-303 derived from the Code of General Ordinances of 1967, §§ 21.411--21.420; Ord. No. 44938, 1-10-75; Ord. No. 48599, 12-22-77; Ord. No. 50672, 8-9-79; Ord. No. 51255, 2-15-80)

Secs. 40-294--40-330. Reserved.

ARTICLE VI. MISCELLANEOUS BUSINESS REGULATIONS

Sec. 40-331. Suspension or revocation of license for keeping a disorderly premises.

(a) *Defined.* Any lot, plot or parcel of land, including the buildings or structures thereon wherein any of the following acts are committed shall be deemed a disorderly premises:

- (1) Where intoxicating liquor is sold without a permit or in violation of any other provision of chapter 10.
- (2) Where quarreling, fighting, or boisterous conduct is encouraged or permitted.
- (3) Where there is the performance of any sexual act declared unlawful by ordinance including, but not limited to, solicitation for the purposes of prostitution.
- (4) Where controlled substances are sold, possessed, distributed, or used in violation of statute or ordinance.
- (5) Where there are loud noises in violation of the noise ordinance.

(b) *Report by police.* It shall be the duty of the chief of police, or his authorized representatives, to report to the commissioner of revenue whenever the owner, operator, manager or other person who is the holder of an occupation license required under this chapter has been convicted of operating or keeping a disorderly premises or suffering a disorderly premises to be operated or kept upon the licensed premises, or whenever the holder of an occupation license has been charged with a violation of keeping a disorderly premises as defined in subsection (a) of this section.

(c) *Suspension or revocation authorized.* The commissioner of revenue is hereby empowered, for good cause shown and after notice and hearing, as provided in this section, to suspend the business license of a violator convicted for the second time of a violation of section 50-165, for a period not to exceed 60 days, and upon the third conviction for such violation the violator's license may be revoked by the commissioner, after such notice and hearing, provided that after the expiration of one year from the date of revocation the commissioner of

revenue may issue a new license upon finding that such person has not been convicted of a similar offense within the past year.

(d) *Notice; hearing.* Before such license is suspended or revoked, the holder thereof shall be given notice in writing by the commissioner at least five days prior to the time of the proposed suspension or revocation of the license, and, if the license holder desires a hearing on such proposed suspension or revocation, he shall notify the commissioner in writing to that effect. Upon receipt of the request for hearing, the commissioner shall hold the hearing within five days thereafter and shall cause a record to be made thereof. Should the license holder fail to appear for such hearing, such license shall be automatically suspended or revoked by the commissioner. If, upon a hearing, the commissioner determines that the license should be suspended or revoked, he shall thereafter notify such license holder in writing of his decision.

(e) *Judicial review.* If any person is aggrieved by the decision of the commissioner, he may seek judicial review thereof according to law. Such license holder shall pay for the cost of transcribing the record if judicial review is sought.

(Code of Gen. Ords. 1967, §§ 21.25, 26.11(b); Ord. No. 060163, § 1, 3-16-06)

Cross references: Offenses, ch. 50.

40-332. Arborists--License required; exceptions.

It shall be unlawful for any person to advertise for, contract for or engage in the business of cutting, trimming, pruning, removing, spraying, feeding or applying chemicals to or otherwise treating trees for hire within the city unless such person shall have a business license, as provided in this section and in Articles I and II of this chapter; provided that this section shall have no application to public utility organizations subject to RSMo chs. 386--394.

Sec. 40-333. Same--Prerequisites to issuance of license.

Prior to issuance of a business license to an arborist, each applicant therefor shall present satisfactory evidence of the following:

(1) *Insurance.* A satisfactory public liability insurance policy filed with the director of finance covering all operations of such applicant as engaged in such business in the city, in the sum of at least \$50,000.00 for each person injured and in the sum of at least \$100,000.00 in the case of injury of two or more persons in any one accident, and in the sum of at least \$10,000.00 for damage to property. The policy may be written to allow the first \$250.00 of liability for damage to property to be deductible. Should any policy be cancelled, the director of finance shall be notified of such cancellation by the insurance carrier within ten days after such cancellation is effective, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

(2) *Established business location.* An established business location and telephone listed either in the name of the applicant or in the name of his business.

(Code of Gen. Ords. 1967, § 21.429)

Sec. 40-334. Same--Identification of vehicles.

All trucks and trailers operated by any licensee for the transportation of the equipment used by him in the business regulated in section 40-332 shall have the name

and address of the business of such licensee corresponding to that on file with the commissioner of revenue on both sides thereof in plain and legible figures and letters not less than three inches in height, and the identification shall be kept in such condition as to permit it to be readily distinguished and read at a distance of at least 60 feet.

(Code of Gen. Ords. 1967, § 21.430)

Sec. 40-335. Same--Penalty for violations of sections 40-332 through 40-334.

Any person, or anyone acting in behalf of such person, violating any of the provisions of sections 40-332 through 40-334, or any of the rules or regulations lawfully established and promulgated thereunder, shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for a period of not more than 60 days, or both fined and imprisoned, at the discretion of the court.

(Code of Gen. Ords. 1967, § 21.431)

Sec. 40-336. Compliance with gasoline pre-payment or pre-approval.

(a) Business establishments that sell gasoline and/or diesel fuel are required, pursuant to section 50-126, to require pre-payment or pre-approval of sales of fuel prior to activation or authorization of any fuel dispensing unit or fuel pumping devise.

(b) The commissioner of revenue shall not renew the business license of any business which has failed to require pre-payment or pre-approval of sales of fuel prior to activation or authorization of any fuel dispensing unit or fuel pumping devise which results in motorists filling their fuel tanks and driving off without paying.

(Ord. No. 060702, § 2, 7-13-06)

Secs. 40-337—40-369. Reserved.