

BILL NO. 24-033

ORDINANCE NO. 19553

AN ORDINANCE REPEALING CHAPTER 5 ARTICLE 1 AND ADDING A NEW CHAPTER 5, ARTICLE 1 OF THE CITY CODE AND RENAMING CHAPTER 5 TO "BUSINESS LICENSES."

WHEREAS, the City has had some form of business license regulations dating back to the 1930s; and,

WHEREAS, the last major update to Chapter 5 of the City Code occurred in 1970; and,

WHEREAS, since the adoption, there have been numerous amendments to the Business and Occupation Licenses chapter mostly dealing with singular topics; and,

WHEREAS, the City seeks to update the business licensing regulations to align the City's regulations with the Missouri State Statutes, and to clarify the City's regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Chapter 5, Article 1 "of the Code of the City of Independence, Missouri, is hereby repealed in its entirety as of the effective date of this ordinance.

SECTION 2. That a new Chapter 5, Article 1, attached hereto and made part of hereof is hereby added to the Independence City Code, to read as follows:

"ARTICLE 1. ADMINISTRATION OF LICENSES IN GENERAL, AND REQUIREMENTS THEREOF

Sec. 5.01.001. Applicability.

The provisions of this article shall apply to all corporations, companies, associations, joint stock associations, partnerships, co-partnerships and persons and their lessees, duly constituted trustees or receivers, heirs, administrators or assigns, who shall engage in any business, trade, vocation, profession or occupation including manufacturing, within the City limits.

Sec. 5.01.002. Definitions.

A. For the purposes of this chapter:

ADMINISTER means the direct application of marijuana to a qualifying patient by way of any of the following methods:

- i. Ingestion of capsules, teas, oils, and other marijuana-infused products;**
- ii. Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;**

- iii. Application of ointments or balms;
- iv. Transdermal patches and suppositories; or
- v. Consuming marijuana-infused food products.

APPLICANT means a duly authorized officer or person of a business applying for a business license, either new or renewal.

BUSINESS, TRADE, VOCATION, PROFESSION, OCCUPATION shall mean the selling or providing of any goods, wares, merchandise, or services or as a practice in the conduct of such business, trade, vocation, profession or occupation, the making or causing to be made, any wholesale or retail sales of goods, wares, merchandise or services to any person or association of persons, whether such sales are accommodation sales, made from a stock of goods on hand, or by ordering from another source, or by listing, and whether the subject of such sales or services is similar or different than the type, if any, regularly offered or performed by the seller.

CITY means the City of Independence, Missouri.

CITY INSPECTOR shall mean anyone authorized by the City to make inspections for the purpose of enforcing the provisions of this article.

COMMISSARY means a commissary as defined in Chapter 11 of this Code.

COMPREHENSIVE FACILITY means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

COMPREHENSIVE MARIJUANA CULTIVATION FACILITY means a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

COMPREHENSIVE MARIJUANA DISPENSARY FACILITY means a facility licensed by the Department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section I of Article XIV, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of this Article and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical

marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in this Article and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

COMPREHENSIVE MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY means a facility licensed by the Department to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

CONSTITUTION shall mean the Constitution of the State of Missouri.

CONSUMER means a person who is at least 21 years of age.

DEPARTMENT means the Department of Health and Senior Services, or its successor agency.

FINE when used herein shall mean a monetary fine imposed by the Municipal Court for this City.

FOOD TRUCK means a vehicle mounted mobile food unit.

GROSS BUSINESS ACTIVITY means the gross value of all goods, wares, merchandise, chattel and all other personal and commercial property of every kind and description bought, sold, leased, manufactured or exchanged by the business or person during the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

GROSS COMMISSIONS means the gross amount of commissions, fees, charges or compensation earned from the business during the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

GROSS RECEIPTS shall mean the gross receipts or revenues earned from the receipt of cash, credits and property of any kind for any act or service by a business or person in the preceding calendar or fiscal year consistent with the reporting and accounting basis adopted for Federal taxation purposes.

INSIGNIA or its singular number, insigne, means any tag, plate badge, emblem, sticker or any other kind of device which may be required for use in connection with any license.

LANDLORD means any person firm or corporation who rents or leases dwelling units owned by such person, firm or corporation.

LICENSE OR LICENSEE means specifically, a certificate holder of a business license or permit, or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

LICENSE YEAR is the 12-month period beginning the first day of the month in which a license is issued for or renewed.

MAINTAINING A BUSINESS OFFICE means conducting the activities of one's occupation at a given place, phone or address within the physical boundaries of the City of Independence.

MANAGING OFFICER means the person who is in active management and control who may be designated by a corporation as the managing officer, and who may be eligible as an individual to receive a license under the provisions of this chapter.

MARIJUANA or MARIHUANA means Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. 'Marijuana' or 'Marihuana' do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

MARIJUANA BUSINESS means any marijuana facility or facility licensed by Department of Health and Senior Services under the authority granted by Article XIV of the Constitution.

MARIJUANA DISPENSARY means either a Medical Marijuana Dispensary, a Comprehensive Marijuana Dispensary, or a Micro-Business as those terms are defined in Article XIV of the Constitution.

MARIJUANA FACILITY means a medical marijuana facility or a comprehensive facility as that term is defined by Article XIV Section 2 of the Constitution, a microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana related facility or business licensed or certified by the Department pursuant to Section 2 of Article XIV

MARIJUANA-INFUSED PRODUCTS means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

MARIJUANA MICROBUSINESS FACILITY means a facility licensed by the Department as a microbusiness dispensary facility or microbusiness wholesale facility, as defined in this section.

MARIJUANA TESTING FACILITY means a facility certified by the Department to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility including those originally certified as a medical marijuana testing facility.

MEDICAL MARIJUANA CULTIVATION FACILITY means a facility licensed by the Department, to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility and shall also mean a Comprehensive Marijuana Cultivation Facility, as that term is defined in Article XIV of the Constitution.

MEDICAL MARIJUANA DISPENSARY FACILITY means a facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided in this section to a qualifying patient, a primary caregiver, another licensed medical marijuana dispensary facility, a licensed medical marijuana testing facility, or a licensed medical marijuana infused products manufacturing facility.

MEDICAL MARIJUANA FACILITY means a medical marijuana dispensary, medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana infused products manufacturing facility and medical marijuana transportation facility licensed by the State of Missouri.

MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY means a facility licensed by the Department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

MEDICAL MARIJUANA TRANSPORTATION FACILITY means a facility certified by the State of Missouri to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana transportation facility.

MICROBUSINESS DISPENSARY FACILITY means a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient, as that term is defined in section I of this Article XIV of the Constitution, or primary caregiver, as that term is defined in section I of this Article XIV of the Constitution, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of this Article and as otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility. Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.

MICROBUSINESS WHOLESALE FACILITY means a facility licensed by the Department to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.

MOBILE FOOD UNIT means a mobile food unit as defined in Chapter 11 of this Code.

BUSINESS LICENSE means the license that every person must obtain from the City before engaging in or continuing to engage in any business, non-exempted profession or occupation in the City.

PERSON means person, partnership, society, association, club, trustee, trust or corporation; or any officer, agent, employee, factor or any kind of personal representative under either personal appointment or pursuant to law.

PREMISES means to include all lands, structures, places and also any equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

PRIMARY CAREGIVER means a person designated as such by the Department.

PUSHCART means a non-self-propelled mobile food unit.

QUALIFYING PATIENT means a person designated as such by the Department.

B. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Sec. 5.01.003. Business license required.

A. Every person, whether or not located in the City, desiring to engage in any business, profession or occupation in the City shall be required to obtain a business license before engaging in such activity as specified in this chapter. Business licenses are not transferable.

B. Any person shall be deemed to be in business or engaging in non-profit enterprise and thus subject to the requirements of this chapter when any selling, manufacturing, soliciting, transfer, bartering or offering of any goods, wares, real, intangible and tangible personal property or services takes place. One act thereof shall constitute doing business.

C. Every agent, general contractor, sub-contractor, or representative of any person desiring to engage in or to continue to engage in any business, profession or occupation shall be responsible for the compliance of such person in acquiring an business license as required by this chapter.

D. No license shall be required of any person for any delivery in the City of any property purchased or acquired in good faith from any person at any regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this chapter.

E. In order for customers to obtain utility service to an office, commercial and industrial establishment, a valid business license shall be issued by the City of Independence for that property address for any use, and if the business operates as a Limited Liability

Company (LLC), said business shall file with the City of Independence a valid LLC registration in accordance with RSMo 347.048.

Sec. 5.01.004. Business license exemption.

- A. Those professions or callings specifically exempted from license fees or taxes by virtue of RSMo 71.620, which are as follows: Minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist or physician or surgeon in the State;
- B. As provided in RSMo 71.620, those professions of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this State shall be specifically exempted unless that person maintains a business office within the City.
- C. Specifically farmers or producers, for the sale of produce raised by him, her or them when sold from his, her or their wagon, cart or vehicle or from any person in the employ of such farmers or producers in the City, as provided in RSMo 71.630, shall be exempted from any such licenses and fees imposed by this article.
- D. In accordance with RSMo 345.055, as amended, clinical audiologist and speech-language pathologist, are exempt from the licensing and fee provisions of this article.
- E. In accordance with RSMo 324.1114, as amended, private investigators are exempt from the licensing and fee provisions of this article.
- F. In accordance with RSMo 337.070, as amended, a psychologist licensed by the State of Missouri is exempt from the licensing and fee provisions of this article.

Sec. 5.01.005. Administration and enforcement.

- A. *Enforcement.* It shall be the duty of the Community Development Department, together with duly authorized deputies and agents, to enforce the provisions of this article within the confines of the City, to report violations to the proper municipal authority and to prosecute the alleged violators in the Municipal Court of the City.
- B. *Additional duties.* The Community Development Department shall:
 - 1. Prepare a complete record of all licenses issued under this article, showing the nature of the license, its date of issuance, to whom issued and the amount of or exemption of the fee collected therefor;
 - 2. Recommend appropriate license fees in conformity with this Code, provided that any applicant or licensee in disagreement with such decision may pay the license fee under protest and appeal such decision as provided in this article;
 - 3. Conduct or cause to be conducted periodic inspections of the premises and necessary records of any licensee in order that compliance or noncompliance with the provisions of this article may be ascertained;

4. Submit to the Council suggestions and recommendations with respect to the amendments and updates to this Chapter.

Sec. 5.01.006. Applications for license.

- A. All applications for licenses provided for in this article shall be filed with the Community Development Department. All applications shall be reviewed by the applicable departments to certify that the premises, the business and business operations meet minimum code standards and zoning regulations as established by the City before issuance of such license.
- B. The Community Development Department shall refer to the Police Department for review all applications for business licenses for security operations or those involved in investigation, bonding, security or related fields.
- C. At the time the application is submitted, the Community Development Department shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.
- D. Every business that permits members of the public on its business premises or that performs services on premises other than its own business premise, shall certify that the business has a minimum of \$500,000.00 of general liability insurance for bodily injury and property damage per occurrence.
- E. Contractors in the construction industry shall submit a certificate of insurance for workers' compensation in accordance with RSMo 287.061 or an affidavit signed by the applicant attesting that the contractor is exempt from the requirements of RSMo Chapter 287.

Sec. 5.01.007. License fees for certain trades, vocations, professions, occupations.

- A. Generally. Unless otherwise provided by this article or elsewhere in the Code, for each trade, vocation, profession or occupation a person is engaged in within the City, that person shall procure and pay for a license, as established in the City's Schedule of Fees and Charges.
- B. In accordance with RSMo 148.440, as amended, the business and occupation license fee for every insurance company or insurance agent providing insurance which includes coverage for any property loss or damage caused by a fire shall not exceed \$200.00 per year. The business and occupation license fee for every other type of insurance company shall not exceed \$100.00 per year.
- C. Individuals serving as their own general contractor to build a dwelling for their own personal use shall not be required to pay the license fee contained in this section.

Sec. 5.01.008. Payment of financial obligation prerequisite to issuance of license.

It shall be unlawful for any person to operate a business or manufacturing facility, engage in a trade, vocation, profession or occupation unless and until all financial obligations

which are due and owing to the City have been paid. No license provided for or required under this article or by any other ordinance of the City shall be issued by any department until compliance with this Section shall have been fulfilled.

Sec. 5.01.009. Separate license required for each place of business.

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any occupation, calling, trade or enterprise for which a license is required by this chapter.

Sec. 5.01.010. More than one occupation at the same address.

Whenever any person making application for a license under the provisions of this article is engaged in more than one (1) business, not operated as a separate business entity, at the same address, such person shall combine the information for all businesses conducted at the same address, as required for the purpose of determining the license fee.

Sec. 5.01.011. Missouri Retail Sales License required prior to issuance of license.

- A. All applicants with possession of a retail sales license are required to submit a statement from the Missouri Department of Revenue that the licensee owes no tax due under RSMo 144.010 to 144.510. The date of issuance on the statement shall not be more than ninety (90) days before the date of submission of the application or renewal of the license. A licensee who is required by state law or RSMo 144.010—144.510 to have a retail sales license shall not operate a business in the city without a state sales tax number or a valid retail sales license. In addition to other penalties set forth in this chapter, the business license of a licensee who fails to comply with provisions of this section shall be subject to revocation proceedings as set forth in this chapter.
- B. The city's business license of any person shall be null and void upon the director of revenue of the state giving the city notice that the person's retail sales license has been revoked in accordance with procedures set forth in RSMo 144.083.
- C. The city license may be reinstated for a fee of \$5.00 for the remainder of the original term upon satisfactory proof presented to the City that the licensee has secured the needed state retail license or that it has been reinstated by the department of revenue of the state.

Sec. 5.01.012. Marijuana business licensing.

- A. Marijuana businesses shall be required to have a city license as required in Chapter 5.
- B. Premises Requirements. No license shall be granted or retained under this chapter for a marijuana business if the applicant has not submitted and maintained a security plan, operation and management plan, and emergency response plan in accordance with this chapter.
 - 1. Security Plan. A written security plan shall be submitted with the business license application for the marijuana business. The plan shall detail security measures for

the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employee and the public and to protect the property from theft or other criminal activity. Each facility shall comply with the security requirements established by the State of Missouri and include, but not limited to, the following elements in the security plan:

- a. *Cameras.* The marijuana business shall install and use security cameras to monitor and record all areas of the premises, except in restrooms and consultation rooms while a patient is undressed. Such security cameras shall specifically include all areas where a person may gain or attempt to gain access to marijuana or cash maintained by the marijuana business. Cameras shall be of sufficient resolution to record operations of the marijuana business to an off-site location and shall also include any parking lots or areas near the marijuana business and all potential areas of ingress or egress to the marijuana business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of 40 days in a secure off-site location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be identified in the security plan submitted to the City and access to recordings maintained must be provided to the Independence Police Department upon request. Any change in location of the off-site location shall be updated within 72 hours of any such change.
- b. *Use of Safe for Storage.* The marijuana business shall install and use a secure safe for storage of all processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe, so long as the container is affixed to the building structure and secure from intrusion.
- c. *Alarm System.* The marijuana business shall install and use an alarm system that is monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and must be updated within 72 hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.
- d. *Lighting System.* The marijuana business shall have sufficient exterior lighting for security purposes and shall otherwise comply with applicable city code requirements.

2. *Operation and Management Plan.* A written operation and management plan shall be submitted with the business license application for the marijuana business. The operation and management plan shall include, but not be limited to, the following

elements: organizational structure, location, property description, proof that facilities are wheelchair accessible, proof that facilities comply with the Americans with Disabilities Act, hours of operation and staffing, description of proposed operations, list of any hazardous materials used as part of its operations, distribution practices, employee safety procedures and guidelines, fire mitigation and prevention systems in compliance with the International Fire Code as adopted by the City of Independence, sanitation requirements and waste management processes, ventilation system and air quality controls showing how odor emission will not be detectable off the premises, and proposed water system and utility demand. The operation and management plan must also meet the minimum facility standards established by the State of Missouri and comply with the City Code.

3. *Emergency Response Plan.* A written emergency response plan shall be submitted with the business license application for the marijuana business. The plan shall identify emergency plans and contingency plans that would be executed in the event of an emergency arising from the site's usage as a marijuana business. The emergency response plan must meet any minimum standards established by the State of Missouri and comply with the City Code.

C. Application. Any person desiring a license to operate a marijuana business shall submit an application for issuance or renewal of such license to the City. The application shall include the following:

1. Written statements upon forms provided by the City as necessary to determine:

a. The gross receipts, gross business activity or gross commission of the applicant.

b. Every business that permits members of the public on its business premises or that performs services on premises other than its own business premise, shall certify that the business has a minimum of \$500,000.00 of general liability insurance for bodily injury and property damage per occurrence.

d. That an applicant has sworn to the truthfulness and accuracy of the information provided on all forms and will abide by the provisions of this chapter. The applicant must provide positive identification as the person applying for such license.

e. The location, place, or premises for which a license is sought.

f. The type of license for which the application is made.

2. The application shall be accompanied by a complete security plan, operation and management plan, and emergency plan.

3. The application shall be accompanied by proof of a valid and current license or certificate issued by the DHSS for each medical marijuana facility type for which a license is sought.

4. The full amount of the fees chargeable for such license.

Sec. 5.01.013. Determination of gross annual receipts.

- A. For new applicants of new businesses the phrase "gross receipts", or "gross commissions" or "gross business activity" shall be based on an estimated gross receipts, gross business activity or gross commissions subject to adjustment upon renewal. Such fee shall be adjusted when the actual amount of gross receipts, gross business activity or gross commission is reported on the first renewal.
- B. For businesses located outside the City limits of Independence, gross receipts, gross business activity or gross commissions shall be reported for business activities which occur within the City limits.
- C. For residential and commercial builders, gross receipts means all monies received from construction or sale of a residential or commercial structure. Therefore, the sales price or contract price of the residential or commercial structure is the "gross receipts", not the profit from the sale. This applies to both contract or speculative construction.

Sec. 5.01.014. Statement of gross annual receipts.

Every person required to obtain a license under the provisions of this chapter where the fee for such license is based on gross receipts, gross business activity or commissions shall at the time of application and renewal, furnish the City with a statement in writing showing the amount of gross receipts activities, gross business or commissions for the preceding calendar or fiscal year.

Sec. 5.01.015. Examination of applicant's books and records.

- A. The City shall have the right at all reasonable times after due notification during regular business hours to audit or examine the books, records and tax returns of the applicant or licensee for any license provided by this chapter for the purpose of determining the accuracy of any statement made by the applicant or licensee for such license.

Sec. 5.01.016. License year, when fees are paid, expiration.

- A. Except as otherwise specifically provided by this chapter, all licenses provided for in this article shall expire one (1) year from the date of issuance. Such fees shall be payable upon filing of a new application and upon renewal annually as further set out in this section. Special licenses to nonprofit businesses shall be effective for five (5) years renewable on the last day prior to the anniversary date of such license(s).
- B. Any person applying for a business license whose fiscal year does not coincide with its license year under this chapter, shall be permitted to report and pay the license fee based upon such fiscal year.
- C. License fees for renewals shall be due and payable on or before the last day of the first month of each license year.
- D. All licenses, except as otherwise specifically provided for in this chapter, shall expire if the renewal fee is not paid in full within the period provided for in Paragraph "C" above. A license which is not paid in full by such date is delinquent and such business or

occupation will be deemed unlicensed and fall under the strict enforcement of this chapter.

- E. All license fees required to be paid pursuant to the provisions of this chapter of the City Code shall be deemed delinquent if not paid on the date such payment is due. All persons delinquent in the payment of such fees, in addition to the fees found to be due, shall be required to pay the license fee, plus an additional ten percent penalty of the license fee for the first month or fraction thereof past due and an additional two percent of the license fee due for each additional month such delinquency shall thereafter continue. The penalty provided for in this section shall be in addition to any other penalty prescribed by ordinance.

Sec. 5.01.017. Pro-rating license fees.

Business license fees shall not be pro-rated but shall be charged on a license year basis.

Sec. 5.01.018. License to be prominently displayed.

All licenses issued by the City under this article shall be carefully preserved and prominently displayed in a conspicuous manner in the place of business authorized to be conducted by such license.

Sec. 5.01.019. Change of ownership or location.

- A. Any licensee shall have the right to change the location of a licensed business provided that:
1. The licensee submits an application on forms provided by the City for such change in location of the licensed business prior to making such change in location.
 2. The proposed location meets the requirements of all Health, Zoning, Fire, Building and other codes of the City of Independence.
 3. The licensee pays a transfer fee as outlined in the Schedule of Fees.
- B. A license issued to any person under the provisions of this article shall not be transferable from one (1) person to another person in the event of the change of ownership.

Sec. 5.01.020. Liquor.

Nothing in this article shall be construed as authorizing any person to sell intoxicating liquor by virtue of a business license without holding a valid alcoholic beverage license.

Sec. 5.01.021. Compliance with other ordinances.

All licensees shall comply in every respect with the Unified Development Ordinance and all other ordinances of the City, including a health inspection if the business is of a type requiring such inspection.

Sec. 5.01.022. Claim procedure for refund of fees.

- A. New applicants for business licenses which never open, or which close or move during the license year or any person making a claim for a refund because of alleged overpayment of license fees as required by this chapter shall file with the City satisfactory proof in support of such claim. Upon presentation of such satisfactory proof, the City shall refund an appropriate portion of any previously paid license fee. However, a minimum fee of \$40.00 shall be retained in any case to cover administrative and material costs of the application.
- B. Time limitations on credit or refund. A claim for credit or refund of an overpayment of any fee imposed by this chapter shall be filed by the licensee within two years from the time the fee was paid.
- C. Notwithstanding any other provision of this chapter, in the case of any overpayment of any license tax under this chapter, the commissioner may, instead of granting a refund, credit and apply the amount of such overpayment against any uncontested delinquent tax liability of any type whatsoever owed by the taxpayer to the city, and within the period of limitations for collection.

Sec. 5.01.023. License denial, suspension or revocation.

A. Denial.

- 1. Basis for Denial. The City may deny a business license application, for any of the following reasons:
 - a. Any reviewing department, division or agency of the City has denied the application pursuant to any applicable provisions of the City Code;
 - b. Applicant is delinquent in the payment of any taxes or fees due the City under this chapter;
 - c. The application contains false or incomplete information;
 - d. Noncompliance with (a) any requirement or condition set by the City Council, Planning Commission, or Community Development Department or, (b) a conditional use permit, if applicable, granting a variance or special exceptions;
 - e. Noncompliance with any City, State or Federal law, code or statute;
 - f. Any other reason expressly provided for in this chapter; or
 - g. The Missouri Department of Revenue cannot issue to the applicant a Certificate of No Tax Due.
- 2. Procedures—Cease Operations Order.
 - a. When a business license application is denied, written notice will be provided by first class mail to the applicant by mailing a cease operations order to the applicant address on file. The cease operations order will identify the reason(s) for denial of the application and inform the applicant they must cease all business activity at the described location. The cease operation order will identify the available appeal process.

- b. The applicant is deemed to have received written notification three business days after the date of mailing of the cease operations order.
- c. The City may serve a cease operation order in person by delivery of the order to any management employee at the licensed premises or by posting on the main entrance by tacking, each followed by mailing as set out herein. When tacked or delivered in person to the premises, the cease operations order is effective immediately.
- d. The City will immediately notify the Police Department of every cease operations order issued. The Police Department will assist in the enforcement of cease operations orders.

B. Suspension or Revocation:

- 1. Basis for Suspension or Revocation. Any business license issued by the City pursuant to this chapter of the City Code may be suspended or revoked for good cause by the issuing authority upon a finding that one or more of the following conditions exist:
 - a. The licensee fails to provide the City the retail sales license from the State of Missouri or a Certificate of No Tax Due as provide in this Chapter;
 - b. The renewal document contains false or incomplete information;
 - c. The licensee obtained or aided another person to obtain a license by fraud or deceit;
 - d. The licensee is delinquent in the payment of any taxes or fees due the City;
 - e. The licensee refused to allow, or interfered with, inspection of the licensed premises by authorized representatives of the City;
 - f. Violations of this chapter of the City Code by agents or employees of a licensee and/or violations of any other laws by agents or employees committed while acting as an agent or employee of the licensee;
 - g. The existence of chronic unsanitary conditions, noise, disturbances or other conditions at, in, or attributable to the premises of a licensee, that causes or tends to create a public nuisance, which may injuriously affect the public health, safety, or welfare of others, or which unnecessarily affects the adequate allocation of public safety resources;
 - h. Repeatedly or purposefully permitting, allowing, or causing any business activity in violation of any ordinance, rule or law of the City, State or Federal government;
 - i. Fraudulent practices or misrepresentation in the operation of the business;
 - j. Concealment or misrepresentation in the application of a business license;
 - k. The business operation becomes unlawful or is prohibited by any code, rule or law of the City, State or Federal government;

- l. The issuance of the license was in error or in violation of the provision of the Code;
- m. The business premises is condemned, declared a fire hazard, or declared unsafe for business occupancy pursuant to applicable City Code Chapters;
- n. Wrongful behavior creating a safety issue based on business activity;
- o. Failure to remain current in the payment of taxes owed the Missouri Department of Revenue; or
- p. Any other reason expressly provided for in this chapter of the City Code.

2. Procedures to Suspend or Revoke a Business License.

- a. The City is empowered, through an Administrative Hearing, to revoke or suspend a license issued under the provisions of this chapter of the Code.
- b. The hearing(s) shall follow the Administrative Hearing Procedures for Revocation or Suspension of Business and Other Business Licenses established and amended from time to time by the Community Development Department and in effect at the time of the hearing.
- c. When the City suspends or revokes a business license, the City will provide written notice by first class mail to the licensee by mailing a cease operations order to the last address on file. The cease operation order will include a copy of the City's formal written ruling and inform the applicant they must cease all business activity at the specified location. The cease operation order will identify the appeal process available.
- d. The Licensee is deemed to have received written notification of the cease operations order three business days after the date of mailing of the order to the last address on file with the Business Licensing Division.
- e. The City may serve a cease operation order in person by delivery of the order to any management employee at the licensed premises or by posting on the main entrance by tacking, each followed by mailing as set out herein. When tacked or delivered in person to the premises, the cease operations order is effective immediately.
- f. The City will immediately notify the Police Department of every cease operation notice issued. The Police Department will assist in the enforcement of cease operations orders.

3. Licensing After Revocation. A person whose license is revoked under this chapter may not apply for another business license under this chapter for a period of 12 months after the final decision in the administrative appeals process or an appeal period runs without an appeal, whichever is later.

C. *Penalty.* Any person or business violating a cease operations order under this chapter shall be subject to a fine of not more than \$500.00 per day upon conviction. Each day of violation is a separate offence.

D. Nothing contained in this chapter shall preclude the informal disposition of contested cases by stipulation, agreed settlement, consent order, or default.

Sec. 5.01.024. Appeal procedure.

An applicant may appeal the decision of the City made in accordance with Section 5.01.023 to Circuit Court as established under RSMo 536. All decisions of the City shall be final decisions 30 days after the mailing or personal service of the decision.

Sec. 5.01.025. Operations of business without a license.

When a business operates without a license, the following procedure shall apply:

A. The City shall issue to the affected person a provisional order to correct such violation.

B. The provisional order and all other notices issued in compliance with this chapter shall be in writing, personally served or left with the affected person's agent or employee. The notice shall apprise the person affected of the specific violations. In the absence of such person affected or the agent or employee, a copy of such notice shall be affixed to some structure on the premises. Mailing such notice to the last known address of the person affected shall constitute service thereof.

C. The provisional order shall require compliance within five days of personal service on the affected person and within ten days of affixing such notice to the licensee's premises or depositing such notice in the United States mail.

D. Upon the failure or refusal of the violator to comply with the provisional order, any person or business violating a provisional order under this chapter shall be subject to a fine of not more than \$500.00 per day upon conviction. Each day of violation is a separate offence.

E. The continued operation of a business without a current and valid business license shall be deemed a nuisance, and, as such, shall be actionable in accordance with the Independence City Code, and all of the provisions of the City Code are applicable to the nuisance and its abatement.

Sec. 5.01.026. Operations of business that is not allowed.

When a business that is not allowed operates without a license, the following procedure shall apply:

A. Written notice will be provided by first class mail to the applicant by mailing a cease operations order to the applicant address on file. The cease operations order will identify the City Code provisions said business activity is in violation of and inform the applicant they must cease all business activity at the described location.

- B. The applicant is deemed to have received written notification three business days after the date of mailing of the cease operations order.
- C. The City may serve a cease operation order in person by delivery of the order to any management employee at the licensed premises or by posting on the main entrance by tacking, each followed by mailing as set out herein. When tacked or delivered in person to the premises, the cease operations order is effective immediately.
- D. Upon the failure or refusal of the violator to comply with the cease operations order, any person or business violating a cease operations order under this chapter shall be subject to a fine of not more than \$500.00 per day upon conviction. Each day of violation is a separate offence.
- E. The Licensing Division will immediately notify the Police Department of every cease operations order issued. The Police Department will assist in the enforcement of cease operations orders.
- F. The continued operation of a business without a current and valid business license shall be deemed a nuisance, and, as such, shall be actionable in accordance with the Independence City Code, and all of the provisions of the City Code are applicable to the nuisance and it's abatement.

Sec. 5.01.027. Mobile food units allowed.

- A. Separate business licenses are required for mobile food units of businesses operating as self-contained food preparation units or out of a commissary not located within the City.
- B. Separate business licenses are not required for mobile food units of businesses operating out of a licensed commissary located within the City.
- C. Mobile food units licensed under this chapter shall:
 - 1. obtain any other permits and comply with all other applicable regulations under Chapter 11 or other chapters of this Code;
 - 2. obtain and be able to produce upon request, written permission of the property owner;
 - 3. obtain written permission, in the case of property owned by the City of Independence, as follows:
 - i. operating in City parks only with permission from the Director of Parks and Recreation or his designee;
 - ii. operating in City parking lots, other than lots in use as the Farmers' Market, only with permission from the Director of Public Works or his designee. In the Independence Square retail area and Englewood Arts District, the Director of Public Works will designate by signage pre-approved parking locations. Vendors will be able to operate in these designated areas on a first-come first-served basis;

4. obtain consent of the owner or occupant of the property immediately abutting the parked food truck when parking in a residential district;
5. operate upon City rights-of-way (streets or sidewalks) so as not to obstruct the flow of vehicular or pedestrian traffic;
6. restrict operations to paved surfaces;
7. not block any street or alley;
8. be attended at all times, whether serving or not;
9. limit operations to the period between 6:30 a.m. and 9:00 p.m.;
10. not sell food items within 50 feet of the front facing façade, and the side facing façade if adjacent to a public road, of a restaurant, deli, cafeteria, or other eating establishment selling food items during the time it is open for business, except that food items may be sold from pushcarts within this 50-foot zone, if owned and operated by a restaurant located within that 50-foot zone; and
11. comply with special event vending requirements for street fairs, parades and block parties, which have been approved by the City.

Sec. 5.01.028. Video surveillance camera requirements.

- A. This section is enacted to reduce the potential for situations where employees of certain hotels/motels, convenience stores, with and without fuel sales, or tobacco stores are exposed to potential death and/injuries because of actions of people with criminal intent, and retrieving an image and/or video to assist in criminal offender identification, apprehension and prosecution.
- B. Definitions.
 1. "Hotel/Motel" are as defined by Section 14-200-05-M.2 of the Unified Development Ordinance.
 2. "Convenience stores, with and without fuel sales, or tobacco stores" are as defined by Section 14-201 of the Unified Development Ordinance.
 3. "Video surveillance system" or "VSS" means a continuous digital surveillance system including cameras, cabling and/or remotes, monitors, and digital video recorders that records in color with cameras and lens. The system shall be capable of producing a retrievable and identifiable images and video recordings on media that can be enlarged through projection or other means, and can be made a permanent record for use in criminal investigation.
- C. VSS Required. Hotel/motels, convenience stores, with and without fuel sales, or tobacco stores shall be equipped with a VSS capable of recording and retrieving an image to assist in offender identification, apprehension and prosecution. At a minimum, hotel/motels, convenience stores, with and without fuel sales, or tobacco stores shall:

1. Have two color digital high-resolution surveillance cameras inside the hotel/motel, convenience store, with and without fuel sales, or tobacco store. One surveillance camera shall have an overall view of the counter/register area and the other surveillance camera shall have a view of the main entrance/exit area. The entrance/exit area surveillance camera shall be placed to provide a clear and identifiable full frame of the filmed individuals face and all cameras shall remain unobstructed by any display sign or other item; and
 2. Have at least two digital high-resolution surveillance camera outside the establishment.

The surveillance cameras shall have an overall view of:

 - a. The parking areas and/or fuel pump areas for convenience stores, with and without fuel sales, or tobacco stores; and
 - b. The entrances to the parking areas for hotels/motels; and
 3. Have a VSS showing the correct date and time of the recording; and
 4. Have a VSS operated at all times, including hours when the hotel/motel, convenience store, with and without fuel sales, or tobacco store is not open for business; and
 5. Have a VSS maintained on a routine basis, not to exceed every six months to ensure that the VSS is working properly at all times; verification of such maintenance, including test digital images produced when the VSS is installed or maintained, retained on the premises and made available for periodic inspection by the business license department or the police department during all hours in which the hotel/motel, convenience store, with and without fuel sales, or tobacco store is open; and
 6. Provide the police department with access to the VSS upon request in connection with crime investigations; and
 7. Have one or more digital video recording devices used to record images from each surveillance camera in the hotel/motel, convenience store, with and without fuel sales, or tobacco store. Each recording device shall be kept in a secured location that is remote from the surveillance cameras. The owner shall maintain a library of the recorded digital images for not less than seven days; and
 8. Have posted at all public entrance/exit signs or decals indicating that surveillance cameras are in use.
- D. Exterior Lighting Required. All exterior areas of hotels/motels, convenience stores, with and without fuel sales, or tobacco stores shall be lighted in accordance with Section 14-508 of the Unified Development Ordinance.
- E. Exemption. A hotel/motel, convenience store, with and without fuel sales, or tobacco store may apply to the Chief of Police, or designee, for exemption from the provisions of this section if that hotel/motel, convenience store, with and without fuel sales, or

tobacco store has undertaken alternate measures which are substantially equal to or more effective in preventing criminal activity and assisting in the apprehension of the perpetrator and for protecting employees. If the Chief of Police, or designee, approves such alternative measures submitted by the hotel/motel, convenience store, with and without fuel sales, or tobacco stores, then the hotel/motel, convenience store, with and without fuel sales, or tobacco store shall not be required to comply with the provisions of this section for as long as the approval of the Chief of Police or designee is effective. If the application for exemption is denied by the Chief of Police or designee, the hotel/motel, convenience store, with and without fuel sales, or tobacco store may then appeal to the City Council for further review of the application for exemption and the decision of the City Council shall be final, except, to such extent the same may be changed by judicial review.

- F. Effective Date of Requirements. All hotels/motels, convenience stores, with and without fuel sales, or tobacco stores commencing operations from and after the effective date of the ordinance codified in this section shall immediately comply with all the provision upon opening its doors to the public. All convenience store, with and without fuel sales, or tobacco stores in operation (doors open to the public on a regular and continuous basis) prior to the effective date of the ordinance codified in this section shall comply with all provisions of this chapter no later than January 1, 2017. All hotels/motels in operation (doors open to the public on a regular and continuous basis) prior to the effective date of the ordinance codified in this section shall comply with all provisions of this chapter no later than July 1, 2018.

Secs. 5.01.029—5.01.999. Reserved.”

SECTION 3. That the title of Chapter 5 is hereby amended as follows:

“Chapter 5
BUSINESS AND ~~OCCUPATION~~ LICENSES”

SECTION 4. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

SECTION 5. That correction of any scriveners’ errors identified within these articles are hereby authorized by this ordinance.

PASSED THIS 20th DAY OF May, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.



Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

Sharonne Howard
City Clerk

APPROVED - FORM AND LEGALITY:

J.W. Co
City Counselor

REVIEWED BY

Zachary Walker
City Manager



NOTE: Words struck through and bolded are being removed by this ordinance and words underscored and bolded are being added by this ordinance.