

## Chapter 600

### ALCOHOLIC BEVERAGES

#### Section 600.005. Purpose.

Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this Chapter establish vital regulation of the sale and distribution of alcoholic beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important policy goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors, and retailers.

#### Section 600.010. Definitions.

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

**AMUSEMENT PLACE** — Any establishment whose business building contains a square footage of at least six thousand (6,000) square feet, and where games of skill commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played or has a dance floor of at least twenty-five hundred (2,500) square feet or any outdoor golf course with a minimum of nine (9) holes, and which has annual gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts is in non-alcoholic sales.

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

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

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

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

**ORIGINAL PACKAGE** — Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other containers of intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor. "*Original package*" shall also be construed and held to refer to any package containing three (3) or more standard bottles of beer.

**PERSON** — An individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any State or Federal court.

RESORT — Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000.00) per year with at least fifty thousand dollars (\$50,000.00) of such gross receipts from non-alcoholic sales, or means a seasonal resort restaurant with food sales as determined in Subsection (2) of Section 311.095, RSMo. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

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

#### **Section 600.015. Sale by the Drink Defined.**

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

#### **Section 600.020. License Required — Classes of Licenses.**

- A. No person shall sell or offer for sale intoxicating liquor in the City of Clever without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.
- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor:
  1. *Package liquor — malt liquor only:* Sales of malt liquor at retail in the original package not for consumption on the premises where sold. This license may include Sunday sales from 9:00 A.M. to Midnight.
  2. *Package liquor — all kinds:* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsection (B)(1) of this Section.
  3. *Liquor by the drink — malt liquor/light wine only:* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (4) of this Section.
  4. *Malt liquor by the drink:* Sales of malt liquor at retail by the drink for consumption on the premises. This license may include Sunday sales from 9:00 A.M. to Midnight.
  5. *Liquor by the drink — all kinds:* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection (B)(2) of this Section.

C. *Sunday Sales.* Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 9:00 A.M. and Midnight:

1. *Package liquor — all kinds:* Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold.
2. *Liquor by the drink — restaurant bar:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.
3. *Liquor by the drink — amusement place:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.
4. *Liquor by the drink — place of entertainment:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.

D. *Permits.*

1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
2. *Tasting permit — retailers.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(2) and (C) of this Section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.
3. *Tasting permit — winery, distiller, manufacturer, etc.*
  - a. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this Subsection (D)(3), a "*sales transaction*" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.
  - b. Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in Sections 311.218, 311.482, 311.485, 311.486, or 311.487, RSMo., or on any tax exempt organization's licensed premises as described in Section 311.090, RSMo.

**Section 600.030. License Regulations.** [Ord. No. 369 §12-17, 12-11-2006]

- A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter or law.
- B. *Newly-Opened Restaurant Bars Or Amusement Places.*
1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
  2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.
- C. *Temporary Permit For Sale By Drink — Certain Organizations.*
1. The City Clerk may issue a permit for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.
  2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.
  3. At the same time that an applicant applies for a permit under the provisions of this Subsection, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
  4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

D. *Operating Hours, Days.*

1. No person having a license issued pursuant to this Chapter, nor any employee of such person shall sell, give away or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays, and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.
2. When January first (1st), March seventeenth (17th), July fourth (4th) or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *Limitation Of Number Of Licensed Establishments.* The number of licenses which shall be issued and outstanding for the sale of intoxicating liquor, light wine, malt liquor and non-intoxicating beer is hereby set, fixed and determined as follows:

1. Board of Aldermen of the City of Clever shall, annually at its first (1st) regularly scheduled meeting in April, determine by resolution the population of the City of Clever.
2. For each two hundred fifty (250) persons as determined herein, the total number of "L-1" licenses shall be one (1).
3. For each two hundred fifty (250) persons as determined herein, the number of "L-2" licenses shall be one (1).
4. For each nineteen thousand five hundred (19,500) persons as determined herein, the total number of "L-3" licenses shall be one (1).
5. Provided that no person now holding any license shall be denied a reissuance thereof from time to time because of this Section, unless such license shall be permitted to lapse.

F. *General License Regulations.*

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.
- G. *Druggists May Sell And Physicians Prescribe Liquor.* Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State, and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative; provided, that nothing in this Chapter shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

**Section 600.035. Sales of Liquor Prohibited Near Schools and Churches.**

- A. No license shall be granted for the sale of intoxicating liquor, as defined in this Chapter, within three hundred (300) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the Board of Aldermen, except that when a school, church or place of worship shall hereafter be established within three hundred (300) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within three hundred (300) feet of the proposed licensed premises.
- B. Subsection (A) of this Section shall not apply to a license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of federal taxes.
- C. Subsection (A) of this Section shall not apply to any premises holding a license issued before January 1, 2004, by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor. To retain a license under this Subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days.

**Section 600.037. Method of Measuring Distance.** [Ord. No. 369 §12-5-F, 12-11-2006]

The distance of three hundred (300) feet specified in Section 600.035 shall be measured from all points of the premises, however, if the zone of prohibition does not lie within either side of the street upon which the premises fronts or within either side of a street which intersects the street upon which the premises fronts, that part of the zone of prohibition is exempt.

**Section 600.040. Schedule of License Fees.**

- A. The amount of the license fee to be paid to the City of Clever before any license is issued shall be one hundred fifty percent (150%) of the amount now or hereafter set by law for payment to the State of Missouri for the issuance of a license of the same type for which application is made.
- B. Of the license fee to be paid for any such license, the applicant shall pay as many calendar quarters as there are quarters (part of a quarter counted as a quarter) remaining from the date of the license to the next succeeding January first (1st).

**Section 600.045. Temporary Location for Liquor by the Drink, Caterers — Permit — Fee Required.**

- A. The City may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this Chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a "*festival*" as defined in Chapter 316, RSMo. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight (168) consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this Section, the permittee shall pay to the City an amount as set out in Section 600.040 above, or fraction thereof, for which the permit is issued.
- B. Except as provided in Subsection (C), all provisions of the Liquor Control Law and the ordinances, rules and regulations of the City, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. Except for Missouri-produced wines in the original package, the provisions of this Section shall not include the sale of packaged goods covered by this temporary permit.
- C. Notwithstanding any other law to the contrary, any caterer who possesses a valid State and valid local liquor license may deliver alcoholic beverages, in the course of his/her catering business. A caterer who possesses a valid State and valid local liquor license need not obtain a separate license for each City the caterer delivers in, so long as such City permits any caterer to deliver alcoholic beverages within the City.
- D. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent (5%) by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two (72) hours of the expiration of the catering permit issued pursuant to this Section.

**Section 600.050. Application for License and Renewal.** [Ord. No. 369 §12-10, 12-11-2006]

- A. *Filing Of An Application.* Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.
- B. *Qualifications.* Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business and, if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The Board of Aldermen also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.
- C. *License "L-3" Intoxicating Liquor By The Drink Sales.* Applicants must be licensed by the State of Missouri under exemptions listed for charitable, fraternal, religious, service or veterans' organization, as per Statute Section 311.090, RSMo., or must qualify per petition and election as per Sections 311.110 through 311.170, RSMo.
- D. Upon approval of any application for a license, the Clerk shall grant the applicant a license to conduct business in the City for a term to expire with the thirty-first (31st) day of December next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.
- E. Applications for renewal of licenses must be filed on or before the first (1st) day of November of each calendar year. Such renewal application shall be reviewed by the Board at its next meeting. Upon approval of the majority of the Board and payment of the license fee provided herein, the Clerk shall renew the license. In the event that any person residing or conducting businesses within two hundred (200) feet of the applicant's place of business shall file a written protest against the renewal of such license, the Board shall conduct a hearing on the application for license renewal as provided in this Subsection.
- F. No license shall be granted at the same meeting of the Board of Aldermen at which that application is presented, except by unanimous vote of the Board. Provided however, that such application may be passed by the Board at which time the application is presented if such applicant has first served notice, in writing, of his/her intention to present the application (including a copy of the application) to each member of the Board of Aldermen at least five (5) days before the meeting of the Board of Aldermen at which such application is to be presented.



**Section 600.060. Minors.**

A. *Persons Eighteen Years Of Age Or Older May Sell Or Handle Intoxicating Liquor, When.*

1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor.
2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.
3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least eighteen (18) years of age may be employed and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail. Any wholesaler licensed pursuant to this Chapter may employ persons of at least eighteen (18) years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor.
4. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar, intoxicating beverages.

B. *Sales To Minor — Exceptions.*

1. No licensee, his/her employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the parent or guardian of the minor nor to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.
2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.
3. It shall be a defense to prosecution under this Subsection if:
  - a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
  - b. The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and

- c. To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.
- C. *Misrepresentation Of Age By Minor To Obtain Liquor — Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.*
  1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.
  2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.
- D. *Minors In Possession Of Intoxicating Liquor.*
  1. No person under the age of twenty-one (21) years, shall purchase or attempt to purchase, or have in his/her possession, any intoxicating liquor as defined in Section 600.010 or, shall be visibly in an intoxicated condition as defined in Section 577.001, RSMo., or shall have a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood.
  2. The provisions of this Subsection shall not apply to a student who:
    - a. Is eighteen (18) years of age or older;
    - b. Is enrolled in an accredited college or university and is a student in a culinary course;
    - c. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
    - d. Tastes a beverage under Subsection (D)(2)(c) of this Section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of any authorized instructor of the college or university, who must be twenty-one (21) years of age or older. Nothing in this Subsection, may be construed to allow a student under the age of twenty-one (21) to receive any beer, ale, porter, wine or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

3. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in Section 577.001, RSMo., shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this Subsection shall be limited to not more than two (2) such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the State Department of Health and Senior Services by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services for this purpose. The State Department of Health and Senior Services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Department of Health and Senior Services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. "Full information" is limited to the following:
  - a. The type of test administered and the procedures followed;
  - b. The time of the collection of the blood or breath sample or urine analyzed;
  - c. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
  - d. The type and status of any permit which was held by the person who performed the test;
  - e. If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

"Full information" does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the State. Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.

#### **Section 600.065. Burden of Proof on Violator Concerning Manufacturer-Sealed Container.**

For purposes of determining violations and prosecution under this Chapter, or any rule or regulation of the Supervisor of Alcohol and Tobacco Control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was no intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

**Section 600.070. Miscellaneous Offenses.**

- A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler.* It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.
- B. *Packaging, Labeling.* Any retailer licensed pursuant to this Chapter shall not:
1. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or
  2. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.
- C. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.
- D. *Unlawful To Sell Unlabeled Liquor — Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.
- E. *Only Those Liquors Authorized By License To Be Kept On Premises.*
1. It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.
  2. Any retailer licensed pursuant to this Chapter shall not:
    - a. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or
    - b. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.
- F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.
- G. *Drinking In Public Places Prohibited.*
1. For purposes of this Section, the term "*public place*" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.
  2. No person shall drink or ingest any intoxicating liquor in or on any public place.
  3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.

4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

**Section 600.080. Warning Sign Displayed — Liquor Licenses.**

Any person who is licensed to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this Section. Such sign shall be at least eleven (11) inches by fourteen (14) inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects". The licensee shall display such sign in a conspicuous place on the licensed premises.

**Section 600.090. Administration of Law — License Suspension/Revocation.**

- A. *Suspension Or Revocation Of License — When — Manner.* The Board may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Board not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises. The hearing shall be conducted in accordance with Section 600.100 of this Chapter.
- B. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:
  1. Violating any of the provisions of either this Chapter, Chapter 311, RSMo., or any ordinance of the City;
  2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;
  3. Making a false affidavit in an application for a license under this Chapter;
  4. Failing to keep an orderly place or house;
  5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
  6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
  7. Selling, giving, or otherwise supplying intoxicating liquor to:
    - a. Any person under the age of twenty-one (21) years,
    - b. Any person during unauthorized hours on the licensed premises,
    - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
    - d. Any person on the licensed premises during a term of suspension as ordered by the Board.

- C. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any violation of Chapter 311, RSMo., or of any felony violation of Chapter 195, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.
- D. *Effect Of Suspension.* No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

**Section 600.100. Hearings Upon Suspension or Revocation of Licenses.** [Ord. No. 369 §12-16, 12-11-2006]

- A. *Testimony — Evidence.* Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.
- B. *Witnesses — How Summoned.* Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.
- C. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.
- D. *Decision — Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.090 of this Chapter, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued. In case of revocation or forfeiture of any license granted and issued under the provisions of this Chapter for cause or otherwise, the City shall in no event return part of the fee paid for such license.
- E. *Appeal.* Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in Chapter 536, RSMo., provided such appeal is filed within thirty (30) days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.

## Chapter 605

### BUSINESS REGULATIONS

#### ARTICLE I

##### In General

**Section 605.010. License Required.** [Ord. No. 167, 8-12-1991]

- A. It shall be unlawful for any person, firm or corporation to engage in any business or occupation in the City of Clever without having first applied for and obtained a license to conduct such business or occupation from the City Clerk and without paying the license fee therefor, all as provided for in this Chapter.
- B. The City shall keep a complete record of all licenses issued showing the name and address of the licensee, the nature of the license and the dates of issue and expiration of such license.

**Section 605.020. License Application and Issuance.**

- A. All applications for the licenses required herein shall be made to the City Clerk on appropriate forms provided for that purpose by the City. All licenses issued by the City Clerk shall be in such form as is provided by the Board of Aldermen; provided however, that such license shall bear the signature of the Mayor of the Board of Aldermen and the City Clerk, the date of issuance thereof and the date of expiration, as well as any additional information that may be required by the Board of Aldermen.
- B. Each applicant for a business license under this Code shall submit a statement from the Missouri Department of Revenue pursuant to Section 144.083.4, RSMo., stating no tax is due, which statement is a prerequisite to the issuance or renewal of a City business license. The statement required by this Section shall be dated within ninety (90) days of submission of the business license application or renewal application.

**Section 605.030. License Fees.** [Ord. No. 167, 8-12-1991; Ord. No. 255, 7-13-1998]

<b>Business or Occupation</b>	<b>License Fee</b>
Abstracters	\$25.00
Ambulance service, per vehicle	\$25.00
Apartment houses having 2 or more rental units, per unit	\$25.00
Auctioneers and auction sales	\$25.00
Auto yards	\$25.00
Automobile dealers, new and used vehicles	\$25.00
Automobile repairs and accessories	\$25.00
Banks	\$25.00
Barbershops	\$25.00
Beauty parlors	\$25.00
Billiard parlors, poolrooms, taverns	\$25.00
Bottling works	\$25.00
Bowling alleys	\$25.00
Brokers and brokerage companies	\$25.00
Canvassers	\$25.00
Car wash	\$25.00
Circuses, 1 day	\$25.00
each additional day	\$25.00
Cloths pressers and cleaners	\$25.00
Cold storage and locker plants	\$25.00
Concerts, 1 day	\$25.00
each additional day	\$25.00
Confectioners	\$25.00
Contractors of all kinds	\$25.00
Day care	\$25.00
Doctors	\$25.00
Drugs and drug sundries	\$25.00
Fertilizer plants	\$25.00
Florists, greenhouses and plant nurseries	\$25.00
Flour and feed mills	\$25.00
Fortunetellers	\$25.00
Grain elevators	\$25.00
Groceries and meat markets	\$25.00
Hardware stores	\$25.00
Hotels and motels, 1st unit	\$25.00
each additional unit	\$25.00



Hucksters, hawkers and peddlers	\$25.00
Insurance agent, agencies or broker	\$25.00
Laundries	\$25.00
Linen supply (rental service)	\$25.00
Loan companies	\$25.00
Lunch wagons and ice cream wagons	\$25.00
Lumberyards	\$25.00
Lunch stand and lunch counters	\$25.00
Machine shops and machine service	\$25.00
Manufacturing agents	\$25.00
Miniature golf courses	\$25.00
News agencies	\$25.00
Photographers	\$25.00
Private parks	\$25.00
Public halls and public grounds	\$25.00
Quick shops	\$25.00
Radio, video and television sales and service	\$25.00
Radio, video and television repairs	\$25.00
Real estate agents	\$25.00
Restaurants	\$25.00
Service stations	\$25.00
Shoe cobbler shops	\$25.00
Shooting galleries	\$25.00
Soft drink, ice cream stands and ice cream parlors	\$25.00
Solicitors (magazine salesperson) all kinds	\$25.00
Stockyards	\$25.00
Storage houses and warehouses	\$25.00
Tailors	\$25.00
Taxicabs, per vehicle	\$25.00
Theaters and movie picture houses	\$25.00
Trailer parks	\$25.00
Undertakers	\$25.00
Veterinarians	\$25.00
Watch, clock and jewelry repair	\$25.00
Wholesale houses and merchants	\$25.00
Business or commercial establishments not specifically mentioned herein	\$25.00
Merchants not specifically listed herein	\$25.00

**Section 605.040. License Not Transferable.**

No license issued under the provisions of this Chapter shall be assignable or transferable but shall apply only to the person to whom same is issued. In the event any licensee, as provided for herein, shall move his/her place of business from one location to another location within the City, said licensee shall submit a statement of the fact of such change to the City Clerk who may transfer such license as to location only. In no event, however, shall such license be transferred from one person to another or from the kind of business or occupation originally licensed to another type of business or occupation.

**Section 605.050. Duration of Licenses — Proration of License Fee, Etc. [CC 1981 §11-2]**

The term of licenses issued pursuant to this Chapter shall be for one (1) year, beginning January first (1st) and ending December thirty-first (31st) of the same year. All license fees shall be paid in full and in advance.

**Section 605.060. Renewal Applications.**

All applications for renewal of a license provided for herein shall be filed no later than December first (1st) of each year.

**Section 605.070. Display of License.**

Each license issued by the City under the provisions of this Chapter shall be carefully preserved and shall be displayed in a conspicuous place in the place of business authorized to be conducted by said license. If there is no place of business, said license shall be carried on the licensee's person.

**Section 605.080. Persons Not to Be Charged for Business License.**

- A. No person following for a livelihood the profession or calling of 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 this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling, and after December 31, 2003, no investment funds service corporation as defined in Section 143.451, RSMo., may be required to pay any such license fee in excess of twenty-five thousand dollars (\$25,000.00) annually, any law, ordinance or Charter to the contrary notwithstanding.
- B. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his/her profession unless that person maintains a business office within the City of Clever.

**Section 605.090. Revocation of License — Grounds.**

- A. Any license issued by the City pursuant to the provisions of this Chapter may be revoked by the Board of Aldermen for any of the following reasons, as well as for any other reasons specified in this Chapter:
1. Any failure to comply with or any violation of any provisions of this Chapter, or any other ordinance of the City regulating the business, occupation or activity licensed, or the Statutes of the State of Missouri by any licensee.
  2. Violation of the terms and conditions upon which the license was issued.
  3. Failure of the licensee to pay any tax or obligation due to the City.
  4. Any misrepresentation or false statement in the application for a license required herein.
  5. Failure to display the license required herein.

Revocation of any license shall be in addition to any other penalty or penalties which may be imposed pursuant to these provisions.

**Section 605.100. Revocation of License — Procedure.**

- A. In any case in which a complaint has been made to the Board of Aldermen, or in which the Board of Aldermen have on their own determined that cause may exist for the revocation of a license under the provisions of this Chapter, the following procedures shall be followed:
1. The Board of Aldermen shall set a date for a hearing to consider the question of revocation.
  2. At least ten (10) days prior to said hearing, written notice shall be mailed to the licensee, by registered mail, return receipt requested, to his/her last known address as shown in the records of the City Clerk advising the licensee of the time, date and place of hearing and of the reason for considering the revocation of his/her license.
  3. During the pendency of this hearing before the Board of Aldermen, the licensee shall be permitted to continue the operation of his/her business.
  4. At the hearing set by the Board of Aldermen, the Board of Aldermen shall hear all relevant and material evidence justifying the retention of the license.
  5. The licensee may be present in person and/or by his/her attorney and may present evidence.
  6. After hearing the evidence presented, the Board of Aldermen shall vote on the issue of whether the subject license shall be revoked.
  7. The affirmative vote of a majority of the Board of Aldermen shall be necessary to revoke any license.

**Section 605.110. Penalty and Delinquency.**

Any person, firm or corporation or co-partnership who shall violate any provision of this Chapter, or who shall exercise or attempt to exercise any of the occupations, trades or avocations, or who shall carry on or engage in or attempt to carry on or engage in any of the businesses for which a license is required in this Chapter in the City of Clever without first paying the tax herein levied and obtaining a license therefor shall, upon conviction, be deemed guilty of an ordinance violation and shall be punished by a fine as specified in Section 100.220 of this Code.

ARTICLE II  
**Miscellaneous Business Regulations**

**Section 605.120. Separate License for Each Place of Business.** [CC 1981 §11-4]

A separate license shall be obtained for each place of business operated by a licensee under this Chapter.

**Section 605.130. Engaging in More Than One Occupation at the Same Place of Business.** [CC 1981 §11-5]

Every person engaged in more than one (1) occupation where such occupations are operated as one (1) business under the same management and at the same location shall pay an individual license for each part of such business.

**Section 605.140. Non-Applicability of Article to Agricultural or Horticultural Products, Etc.** [CC 1981 §11-9]

The Article shall not apply to agricultural or horticultural products, grown or produced in the State, when the same are offered for sale or exchange by the producer thereof nor to their agents or employees; nor shall this Article apply to motor vehicles used and operated by established merchants or by persons who have paid an ad valorem tax in the City for the current year, equal to or more than the prescribed privilege tax levied in this Article; nor to those merchants of the City in delivering goods, wares or merchandise sold at their establishment or place of business within the limits of the City.

**Section 605.150. Collection and Accounting for Taxes Collected Under This Article.** [CC 1981 §11-10]

The license taxes provided for in the foregoing Sections shall be collected by the City Clerk and accounted for as other license taxes. The license required by said Sections shall not be issued until the amount prescribed therefore shall have been paid to the City Clerk and no license shall be assigned or transferred. All licenses shall be signed by the Mayor and attested by the City Clerk.

ARTICLE III  
**Fireworks Sales Permit**

**Section 605.160. Permits for Public Displays.** [CC 1981 §11-27]

- A. The Board of Aldermen shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the Board of Aldermen and shall be of such character and so located, discharged or fired so as, in the opinion of the Board of Aldermen after proper investigation, not to be hazardous to property or endanger any person.
- B. Applications for permits shall be made in writing at least thirty (30) days in advance of the date of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

**Section 605.170. Bond for Fireworks Display Required.** [CC 1981 §11-28]

The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the Board of Aldermen for the payment of all damages which may be caused whether to persons or to property by reason of the permitted display and arising from any acts of the permittee, his/her agents, employees or subcontractors.

**Section 605.180. Sales, Storage, License, Permit Fee for Fireworks.** [Ord. No. 260, 11-9-1998]

It shall be unlawful for any person or business to sell, possess or store Class C fireworks as defined in the State laws of Missouri without first possessing a valid, properly issued State license under the laws of the State of Missouri for the same and who also apply for and receive a City license to sell, store and possess the same fireworks within the City of Clever and provided the location of the sales, storage or possession shall be in an area zoned as either commercial or industrial and upon paying the required City permit fee(s) as may be determined by proper authority. The current fee is two hundred fifty dollars (\$250.00).

ARTICLE IV  
**Garage Sales**

**Section 605.190. Written Notice of Sale Required.** [CC 1981 §11-32]

No person shall advertise, conduct, carry on or permit any garage, patio, yard or other similar sale upon the grounds of or within any dwelling or accessory structure to a dwelling located in a residential district without first submitting to the City Clerk in writing the name of the person holding or conducting such sale, the location of such sale and the dates when such sale is to be held.

**Section 605.200. Limit on Number of Sales.** [CC 1981 §11-33]

No person shall conduct or permit more than two (2) sales of the type required to be registered by Section 605.190 on the same premises within any twelve (12) month period, nor shall any such sale continue for more than three (3) days.

## Chapter 610

### PEDDLERS AND SOLICITORS

#### Section 610.010. Definitions.

As used in this Chapter, the following words have the meaning indicated:

CANVASSER — A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of,

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or
2. Distributing a handbill or flyer advertising a non-commercial event or service.

PEDDLER — A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service. A "*peddler*" does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "*solicitor*".

SOLICITOR — A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of,

1. Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or
2. Distributing a handbill or flyer advertising a commercial event or service.

#### Section 610.020. Exception.

This Chapter shall not apply to a Federal, State or local government employee or a public utility employee in the performance of his/her duty for his/her employer.

#### Section 610.030. Permit Required for Peddlers and Solicitors, Available for Canvassers.

No person shall act as a peddler or as a solicitor within the City without first obtaining a permit in accordance with this Chapter. A canvasser is not required to have a permit but any canvasser wanting a permit for the purpose of reassuring City residents of the canvasser's good faith shall be issued one upon request.

**Section 610.040. Fee.** [Ord. No. 160 §S-3, 1990]

- A. The fee for the issuance of each permit shall be:
1. For a peddler acting on behalf of a merchant otherwise licensed to do business within the City: No fee.
  2. For a peddler acting on behalf of a merchant not otherwise licensed to do business within the City: A fee of one hundred dollars (\$100.00) per day for the first (1st) applicant and fifty dollars (\$50.00) for each additional applicant engaged in the same business.
  3. For a solicitor, including a commercial solicitor advertising an event, activity, good or service for purchase at a location away from the residence: No fee.
  4. For a canvasser requesting a permit: No fee.

**Section 610.050. Application for Permit.**

Any person or organization, formal or informal, may apply for one (1) or more permits by completing an application form at the office of the issuing officer during regular office hours.

**Section 610.060. Contents of Application.**

- A. The applicant, person or organization shall provide the following information:
1. Name of applicant.
  2. Number of permits required.
  3. The name, physical description and photograph of each person for which a permit is requested. In lieu of this information, a driver's license, State identification card, passport or other government-issued identification card issued by a government within the United States containing this information may be provided and a photocopy taken.
  4. The permanent and, if any, local address of the applicant.
  5. The permanent and, if any, local address of each person for whom a permit is requested.
  6. A brief description of the proposed activity related to this permit. Copies of literature to be distributed may be substituted for this description at the option of the applicant.
  7. Date and place of birth for each person for whom a permit is requested and, if available, the Social Security number of such person.
  8. A list of all infraction, offense, misdemeanor and felony convictions of each person for whom a permit is requested for the seven (7) years immediately prior to the application.
  9. The motor vehicle make, model, year, color and State license plate number of any vehicle which will be used by each person for whom a permit is requested.

10. If a permit is requested for a peddler:
  - a. The name and permanent address of the business offering the event, activity, good or service, i.e., the peddler's principal.
  - b. A copy of the principal's sales tax license as issued by the State of Missouri, provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.
  - c. The location where books and records are kept of sales which occur within the City and which are available for City inspection to determine that all City sales taxes have been paid.
11. If a permit is requested for a solicitor:
  - a. The name and permanent address of the organization, person or group for whom donations or proceeds are accepted.
  - b. The web address for this organization, person or group or other address where residents having subsequent questions can go for more information.
12. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

**Section 610.070. Issuance of Permit.**

- A. The permit(s) shall be issued promptly after application but in all cases within eight (8) business hours of completion of an application, unless it is determined within that time that:
  1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven (7) years,
  2. With respect to a particular permit, the individual for whom a permit is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven (7) years, or
  3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

**Section 610.080. Investigation.**

During the period of time following the application for one (1) or more permits and its issuance, the City shall investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within the eight (8) business hours provided in Section 610.070, the permit will nonetheless be issued subject, however, to administrative revocation upon completion of the investigation. If a canvasser requests a permit, the investigation will proceed as described above, but if the City refuses to issue the permit (or revokes it after issuance), the canvasser will be advised that the failure to procure a permit does not prevent him/her from canvassing the residents of the City.

**Section 610.090. Denial — Administrative Revocation.**

If the issuing officer denies, or upon completion of an investigation revokes, the permit to one (1) or more persons, he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification and even before the preparation of the written report, the applicant shall have at his/her option an appeal of the denial of his/her application before the Municipal Court of the City.



### **Section 610.100. Hearing on Appeal.**

If the applicant requests a hearing under Section 610.090, the hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri and review from the decision (on the record of the hearing) shall be had to the Circuit Court of the County in which the City is located. The hearing shall also be subject to the Missouri open meetings and records law.

### **Section 610.110. Display of Permit.**

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

### **Section 610.120. Validity of Permit.**

A permit shall be valid within the meaning of this Chapter for a period of six (6) months from its date of issuance or the term requested, whichever is less.

### **Section 610.130. Revocation of Permit.**

- A. In addition to the administrative revocation of a permit, a permit may be revoked for any of the following reasons:
1. Any violation of this Chapter by the applicant or by the person for whom the particular permit was issued.
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
  3. Conviction of any felony or a misdemeanor involving moral turpitude within the last seven (7) years.
  4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

The revocation procedure shall be initiated by the filing of a complaint by the City Attorney or the issuing officer pursuant to the State Administrative Procedure Act and a hearing before the tribunal identified in Section 610.090 above.

### **Section 610.140. Distribution of Handbills and Commercial Flyers.**

- A. In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:
1. No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The Police are authorized to remove any handbill or flyer found within the right-of-way.
  2. No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.
  3. No handbill or flyer shall be left at or attached to any of the property having a "no solicitor" sign of the type described in Section 610.150(1) and (2).
  4. Any person observed distributing handbills or flyers shall be required to identify himself/herself to the Police (either by producing a permit or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the City receives a complaint of damage caused to private property during the distribution of handbills or flyers.

**Section 610.150. General Prohibitions.**

A. No peddler, solicitor or canvasser shall:

1. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one (1) square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two (2) inches in height. The phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and canvassers.
2. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser.
3. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.
4. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
5. Enter upon the property of another except between the hours of 9:00 A.M. and 8:00 P.M.

Except that the above prohibitions shall not apply when the peddler, solicitor or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

**Section 610.160. Violation to Be Prosecuted as Trespass.**

Any person violating any part of this Chapter shall have committed a trespass on such property and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.

## Chapter 615

### ELECTRIC LIGHT AND POWER COMPANIES

**Section 615.010. License Defined.** [Ord. No. 235 §1, 5-27-1997]

Every light and power company, their successors and assigns generating, manufacturing, selling, distributing, transmitting, supplying and furnishing electricity, electric power, electric energy and electric service (licensee) in the City of Clever, Missouri, shall, for the privilege of doing business and engaging in said occupation therein, pay to the City of Clever a license and occupation tax.

**Section 615.020. Amount of Tax.** [Ord. No. 235 §2, 5-27-1997]

The license and occupation tax herein provided shall be a sum equal to 2.913 percent (2.913%) of the gross receipts derived from the transaction of licensee's business within the City of Clever.

**Section 615.030. Gross Receipts Defined.** [Ord. No. 235 §3, 5-27-1997]

- A. The term "*gross receipts*", when used in this Chapter, shall mean:
1. Except as otherwise provided in Subsection (B) of this Section, all monies collected and received by licensee from the manufacture, distribution and sale of electric power and energy to all of licensee's customers within the present and future boundaries of the City of Clever served under rate schedules as now or hereafter approved by the Missouri Public Service Commission or other approved non-discriminatory rate schedules for residential, commercial or industrial service having a reserve capacity of forty (40) kilowatts or less and before any deductions are made therefrom by the licensee for any expenses, costs, charges or adjustments of any kind.
  2. All monies collected and received by licensee from the sales of other goods, products or services to licensee's customers within the present and future boundaries of the City of Clever before any deductions are made therefrom by the licensee for any expense, costs, charges or adjustments of any kind.
- B. "*Gross receipts*" shall not include:
1. Late, charges and interest collected and received by licensee.
  2. All monies collected and received by licensee from the following customers of licensee:
    - a. Schools, churches and church schools.
  3. Uncollected accounts.

**Section 615.040. Light and Power Company Defined.** [Ord. No. 235 §4, 5-27-1997]

The term "*light and power company*" includes every corporation, company, association, firm or individual which is an "electrical corporation" owning and operating an "electric plant" as a "public utility" within the meaning of and as defined in the Missouri Public Service Commission law (Chapters 386 and 393), any rural electric cooperative (Chapter 394) and any other entity lawfully engaged in the business of marketing, supplying or delivering electric power, energy or service, such sales and delivery not being for resale.

**Section 615.050. Licensee Pay Tax.** [Ord. No. 235 §5, 5-27-1997]

The licensee shall pay the tax herein provided monthly or semi-annually, said tax to be computed upon the basis of gross receipts collected and received by the licensee that are subject to said tax from the first (1st) day through the last day of each month or semi-annually during which licensee is doing business and engaged in said occupation.

**Section 615.060. Date of Filing Reports.** [Ord. No. 235 §6, 5-27-1997]

The exact date after the end of each month or semi-annually for filing reports of gross receipts subject to said tax, the form and contents of such reports and the date for subsequent payment of said tax shall be as mutually agreed upon by the City of Clever and the licensee.