CHAPTER 625: CIGARETTES

ARTICLE I. IN GENERAL

SECTION 625.010: DEFINITIONS

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

CIGARETTE VENDING MACHINE: Any automatic vending machine used for the sale of cigarettes and matches or cigarettes only, and controlled by the insertion of a coin or coins.

CIGARETTES: Any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, or whether any tip or filter is applied thereto, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

DEALER: Any person dealing directly with the manufacturer of cigarettes in their purchase and in the business of selling cigarettes as a first (1st) seller.

MERCHANT: Shall include wholesalers and retailers as described above and further, every person, corporation, copartnership or association of persons, who shall deal in the selling of cigarettes at any store, stand or place occupied for that purpose, in the City of Blue Springs, Missouri. The term, *"merchant"* shall also include any one of the above who owns, rents or leases or controls one (1) or more cigarette vending machines as described herein.

OCCUPATION LICENSE TAX: The tax imposed by the City under this Chapter on the business and for the privilege of selling cigarettes at retail in the City.

PACKAGE: A quantity of cigarettes wrapped and sealed in paper, tinfoil or otherwise by the manufacturer of cigarettes prior to being placed in cartons and shipped from the manufacturer.

RETAILER: Any person who sells to a consumer or to any person for any purpose other than resale.

SALE: Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration or any agreement therefor.

WHOLESALER: A person who sells cigarettes at wholesale or distributes cigarettes to be sold or resold at retail, including any manufacturer, distributor, jobber, broker, agent or other person, whether or not enumerated in this Chapter, who so sells or so distributes cigarettes.
(CC 1968 §6-1; Ord. No. 280 §1, 4-20-65; Ord. No. 2949 §1, 12-16-96)

SECTION 625.020: SALES TO MINORS PROHIBITED

A. It shall be unlawful for any wholesaler, retailer, merchant or other person to sell or permit the sale on premises under his/her control within the corporate limits of the City, cigarettes as described herein to any person who is not at least eighteen (18) years of age. The provisions of this Section shall apply to the sale of cigarettes through cigarette vending machines as well as other sales.

B. Any person who violates this Section shall be fined:

1. For the first (1st) offense, ($25.00) twenty-five dollars;

2. For the second (2nd) offense, ($100.00) one hundred dollars;

3. For the third (3rd) and subsequent offenses, ($250.00) two hundred fifty dollars;

(CC 1968 §6-2; Ord. No. 280 §12, 4-20-65; Ord. No. 1931 §1, 3-19-90)

SECTION 625.025: POSSESSION BY MINORS PROHIBITED

A. No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment or an employee of the Division of Liquor Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B. No person less than eighteen (18) years of age shall misrepresent his/her age to purchase cigarettes or tobacco products.

C. Any person who violates the provisions of this Section shall be penalized as follows:

1. For the first (1st) violation, the person is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars ($25.00) and court costs;

2. For a second (2nd) violation and any subsequent violations, the person is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars ($25.00) and court costs, shall have any cigarettes or tobacco products confiscated and shall complete a tobacco education or smoking cessation program, if available. (Ord. No. 3425 §1, 10-1-01)

SECTION 625.030: PENALTY FOR VIOLATION OF PROVISIONS

Any wholesaler, jobber, retailer, merchant or person who shall violate any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction, in addition to other punishment or forfeiture set forth and provided for herein, shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each separate offense. Each day that a violation continues shall be deemed to be a separate offense.
(CC 1968 §6-3; Ord. No. 280 §13, 4-20-65)

ARTICLE II. OCCUPATION LICENSE

Cross Reference—Occupation licenses generally, ch. 605.

SECTION 625.040: REQUIRED—TAX LEVIED—REGISTRATION FEE

Every merchant or other person engaged in selling cigarettes or offering, delivering or displaying the same for sale within the City, including but not limited to the sale, offering, delivering or displaying thereof, through vending machines, shall procure an occupation license therefor for each place of business that he/she desires to have for sale or distribution of cigarettes, and at the time

such license is issued, shall pay to the Director of Finance a registration fee of one dollar ($1.00) for each such place of business within the corporate limits of the City. In addition to the said registration fee of one dollar ($1.00), there shall be paid an occupation license tax at the rate of two dollars ($2.00) per thousand (1,000) for each and all cigarettes sold, offered, delivered or displayed for sale in the City, said occupation license tax to be paid as set out herein.
(CC 1968 §6-14; Ord. No. 280 §2, 4-20-65; Ord. No. 419 §1, 3-3-69)

SECTION 625.050: CIGARETTE VENDING MACHINE LICENSE—REQUIRED—APPLICATION—FEE

A. *Required.* In addition to the registration fee for each place of business, as set out in the preceding Section, every person, who in any capacity, shall operate or cause to be operated, directly or indirectly, a vending machine or machines for selling or dispensing cigarettes to the public, shall obtain from the Director of Finance as provided in this Chapter, a license for the privilege of operating or maintaining each cigarette vending machine as described herein.

B. *Application Fee.* Each person desiring to obtain a license for a cigarette vending machine shall apply to the Director of Finance upon a form provided by the Director of Finance tendering therewith, if not already paid, his/her one dollar ($1.00) registration fee for each place of business where such

cigarette vending machines will be used and installed, together with a license fee of five dollars ($5.00) for each cigarette vending machine desired to be licensed.
(CC 1968 §6-15; Ord. No. 280 §3, 4-20-65)

SECTION 625.060: TAXES

A. *Tax Levy.* Every dealer or wholesaler engaged in the business of selling cigarettes or offering or displaying the same for sale within the City shall pay the tax set forth in Section 625.040 for each package of twenty (20) cigarettes sold or offered or displayed for sale. This tax shall be paid but once, as provided for in Subsection (B)(2) of this Section, and only by the dealer/wholesaler selling cigarettes or displaying or offering them for sale.

B. *Monthly Tax Payment.*

1. The tax provided for in Subsection (A) of this Section shall be paid to the Director of Finance.

2. It shall be the duty of every dealer or wholesaler, as defined in Section 625.010, selling, offering or displaying for sale any package of cigarettes, to remit the monthly cigarette tax reporting form and full payment by the fifteenth (15th) day of each following month. The canceled check, accompanied by the monthly cigarette tax reporting form, shall be proof of payment. (CC 1968 §6-16; Ord. No. 280 §4, 4-20-65; Ord. No. 2949 §3, 12-16-96)

SECTION 625.070: LICENSES PROCURED FROM DIRECTOR OF FINANCE—ISSUANCE—RESTRICTIONS ON TRANSFER

An occupation license and/or cigarette vending machine license provided for herein, shall be procured from the Director of Finance upon an application form prescribed, prepared and furnished by said Department, and shall set forth such information as required by this Section. The application shall be made under oath and be accompanied by the registration and/or machine license fee provided for herein. Upon approval of the application, the Director of Finance shall grant and issue to the applicant an occupation license or cigarette vending machine license as hereinbefore provided. Occupation licenses and cigarette vending machine licenses shall not be assignable and shall be valid only for the person in whose name issued, for the machine identified therein, and for the transaction of business at the place designated therein; they shall at all times be conspicuously displayed at the premises for which issued or on the machine for which issued.
(CC 1968 §6-17; Ord. No. 280 §7, 4-20-65)

SECTION 625.080: APPLICATION FOR LICENSE—CONTENTS—FALSE STATEMENTS DEEMED CAUSE FOR SUSPENSION

A. The application for an occupation license and/or cigarette vending machine license shall state the name and address of the applicant, or if the applicant is a firm, partnership or association, all of the names and addresses of each member of the firm, partnership or association, or if the applicant is a corporation, the names and addresses of all of the officers, the Board of Directors, and all of the stockholders of the corporation; in the case of a corporation with more than ten (10) stockholders, a statement of the names and addresses of the officers and Directors who are residents of the State of Missouri and the name and address of the corporation's manager of its place of business in Blue Springs, Missouri, shall be sufficient. The application shall generally describe the premises for which the license applied for shall cover, such description to include the street address, if any, of the premises. Such application shall also state the name and address of the person in charge of the premises where the cigarettes are to be sold or in charge of the vending machines, and whether or

not said person has ever been convicted of an offense under the laws of this or any other state relating to the sale or dispensing of cigarettes, or any felony.

B. It shall clearly be stated upon the application whether either occupation or vending machine license is applied for, or whether both of the licenses are desired, and the registration fee and/or license fee shall be paid to the Director at the time of filing the application.

C. Any false statement of a material matter made in the application shall be deemed cause for suspension or revocation of any license issued pursuant to such application. (CC 1968 §6-18; Ord. No. 280 §7, 4-20-65)

SECTION 625.090: APPLICANT TO BE IN POSSESSION OF PREMISES DESCRIBED IN APPLICATION

No license shall be issued unless the applicant is in present possession of the premises described in his/her application, at the time the application is presented to the Director. And no license shall be issued when the applicant or the person in charge of the premises where the cigarettes are sold or in charge of the vending machines has been convicted of any offense relating to the sale or dispensing of cigarettes or any felony. (CC 1968 §6-19; Ord. No. 280 §7, 4-20-65)

SECTION 625.100: DURATION OF LICENSE—PRO RATA CHARGES

A. *Duration.* All licenses shall expire on the last day of February in each and every year unless sooner surrendered, or unless upon notice and hearing the license is suspended or revoked for cause by the City Council.

B. *Pro Rated License Fees.* There shall be no pro rata charges made for the issuance of any license as prescribed hereunder, and the full fee must be paid, no matter what month of the year any license application is made. (CC 1968 §6-20; Ord. No. 280 §7, 4-20-65; Ord. No. 3025 §5, 11-3-97)

SECTION 625.110: SUSPENSION AND REVOCATION—GROUNDS—HEARING REQUIRED

A. *Authority Of Council To Suspend—Notice Required.* The City Council may, upon hearing, suspend or revoke any license issued under the provisions of this Chapter whenever a person or merchant licensed hereunder has not, at all times, complied with all provisions of this Chapter, or facts or information become known which would have prevented original issuance of said license, first having given such licensee not less than ten (10) days written notice of the intention to suspend or revoke his/her license prior to the order of suspension or revocation issuing, which said notice shall contain the ground or grounds for suspension or revocation set out therein and which notice shall command the licensee to be present at the hearing before the City Council to show cause, if any, why such license should not be suspended or revoked; provided that such licensee shall have full right to be represented by counsel.

B. *Service Of Notice.* The notice of revocation or suspension hearing shall be served by a Police Officer or duly appointed agent of the City Council and may be served upon the licensee by leaving a copy thereof with the licensee or any person or employee who appears to be in charge of the place of business of said licensee.

C. *Refund Of License Fee.* Upon the suspension or revocation of any license, no license fee paid, or any part thereof, shall be refunded to the licensee.

D. *Compliance With State Laws Required.* Every licensee shall, in addition to the requirements of this Chapter, comply in every respect with the cigarette laws of the State of Missouri, and any violation thereof shall be valid reason for the suspension or revocation of any license issued under this Chapter. (CC 1968 §6-21; Ord. No. 280 §8, 4-20-65)

SECTION 625.120: INVOICES FROM WHOLESALERS, JOBBERS, STATEMENT OF MERCHANTS REQUIRED—RECORDS TO BE KEPT

A. Each dealer in the City and those wholesalers and retailers as defined in Section 625.010, shall procure and retain invoices showing the amount and value of the shipment of cigarettes received by him, the date thereof, and the name of the shipper, and shall retain this invoice for a period of two (2) years subject to the use and inspection of the City Council or their duly authorized representatives.

B. All dealers, wholesalers and retailers as defined in Section 625.010 within the City shall maintain and keep for a period of two (2) years such other records of cigarettes received, sold or delivered within the City as may be required by the City Council.

C. The City Council or its duly authorized representatives, are authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where they are placed, stored or sold, and equipment of any such dealer, wholesaler, or retailer pertaining to the sale and delivery of cigarettes taxable under this Chapter.

D. To verify the accuracy of the occupation tax imposed and assessed by this Chapter, each person, as defined in Section 625.010, is directed and required to give to the City Council or its duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

E. In addition to the powers herein granted to the City Council, the Council is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of these powers to a deputy or other employee of the City and as to any other matter or thing pertaining to the administration and enforcement of the provisions of this Chapter.

F. Cigarette tax reporting information received from the State of Missouri shall be held in confidence and used solely for verifying cigarette tax payments. (CC 1968 §6-22; Ord. No. 280 §4, 4-20-65; Ord. No. 419 §2, 3-3-69; Ord. No. 2949 §4, 12-16-96)

SECTION 625.130: REFUNDS

The City Council is authorized to adopt, prescribe and promulgate rules and regulations including a monthly cigarette tax reporting form with regard to the presentation of claim for refunds and credits as it may deem advisable. (CC 1968 §6-23; Ord. No. 280 §9, 4-20-65; Ord. No. 2949 §5, 12-16-96)

SECTION 625.140—625.170: RESERVED

Editor's note—Ord. no. 2949 §6 enacted December 16, 1996, repealed sections 625.140—625.170 without any provisions for their replacement. Said former sections derived from CC 1968 §§6-24—6-27 and ord. no. 280 §§5—6, 10, 4-20-65. These sections are reserved for the city's future use.

SECTION 625.180: SEIZURE OF UNTAXED CIGARETTES BY COUNCIL—SALE OF SEIZED CIGARETTES—DISPOSITION OF PROCEEDS

A. *Seizure Authorized.* Whenever the City Council or any of their duly authorized representatives shall discover any cigarettes subject to tax, as provided by this Chapter, and upon which said occupation tax has not been paid, the City Council or their representative or representatives are hereby authorized and empowered forthwith to seize and take possession of said cigarettes, together with any vending machine or other mechanical device for selling and dispensing cigarettes or receptacle in which they are held for sale, and the same shall thereupon be deemed to be forfeited to the City.

B. *Sale Of Seized Cigarettes—Disposition Of Proceeds.* The City Council or their duly authorized representatives may, within a reasonable time thereafter, after public notice at least five (5) days before the day of sale, sell such forfeited cigarettes at a place designated by them, and all proceeds shall be forfeited to the City. The seizure and sale shall not be deemed to relieve any person or merchant from any punishment by fine or other penalty provided herein for violation of any provisions of this Chapter. (CC 1968 §6-28; Ord. No. 280 §11, 4-20-65; Ord. No. 2949 §7, 12-16-96)