

Chapter 54 - Business Licenses

(ORD #8-88)
(ORD #3-89)
(ORD #16-03)
(ORD #13-09)
(ORD #15-09)
(ORD #18-09)
(ORD #1-17)
(ORD #04-17)
(ORD #07-22)
(ORD #10-23)

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54.010. (ORD #10-23) Required.

It shall be unlawful for any person to engage in any business, Occupation, vocation, trade or profession listed in Section 94.270 RSMo, 2014, as amended, specifically excepting those professions or callings exempted from license requirements by Section 71.620, RSMo, 2004 as amended, in the City, without first obtaining a license, therefore. It is the intention of the City to exercise the fullest extent of its licensing power, and to require a license from any and all businesses, trades or professions that can be legally required to obtain a license. Each license shall be issued for one calendar year. Each renewal license applicant shall apply for and pay for required license in January of each year; such license shall be delinquent in February. Each new license applicant shall apply for, pay for and receive the required license before doing any business in the City. All licenses herein shall be issued for the calendar year, are nontransferable, and shall be prorated on application for a partial year or upon cancellation.

54.020. (ORD #8-88) Failure to obtain and display License

Penalty: Effective date of August 1, 1988.

- 1.** It shall be unlawful for any person, either directly or indirectly, to conduct any business, or to use in connection therewith any vehicle, premises, machine or device for which a license or permit is required by this Chapter without the license or permit so required having been first obtained and thereafter kept in effect and displayed at all such times as required by this Chapter.
- 2.** (ORD #01-17) Any person, real or otherwise, failing to display, as referenced in Chapter 54.190, the License referenced in Chapter 54.020 (1) shall be guilty of a general ordinance violation punishable by a fine up to five hundred dollars (\$500.00). (ORD #07-22)
- 3.** Each and every business day that any person, real or otherwise, after being cited for violating Chapter 54, remains in violation of Chapter 54, shall constitute a separate violation of Chapter 54.020 (2).
- 4.** The penalty provisions of this chapter shall take effect August 1, 1988.

54.030. Separate license required for each business, exception.

For each business required by this Chapter to be licensed, a separate license shall be obtained. A person engaged in two or more businesses at the same location shall not be required to obtain a separate license for each business but, when eligible, shall be issued one license, which shall specify on its face all such businesses.

54.040. Operating more than one business at the same location.

When any person engages in two or more businesses at the same location under one license, he shall pay a license fee equal to the sum of all the fees for each business so licensed.

54.050. When person deemed in business.

Except as may be provided otherwise in this Chapter, a person shall be deemed to be in business within the meaning of this Chapter when he is selling any goods or service, soliciting business, or offering goods or service for sale or hire, or using any vehicle or premises in the City for business purposes.

54.060. Determination of whether business, etc., covered by Chapter.

The city license officer shall make initial determination whether any other particular business, activity, occupation, vocation or service shall be covered within the provisions of this Chapter. Such determination shall be reasonably made, based upon the generally accepted concept of each such activity, occupation, vocation or service, and with regard for the intention of the legislature in the enactment of Section 94.270 and other applicable sections of the Revised Statutes of Missouri. Such determination by the city license officer shall be final and binding on persons affected thereby, unless and until such determination is held unreasonable or invalid by a court of competent jurisdiction.

54.070. Responsibility of representatives for compliance of principal, with Chapter.

The local agents or other representatives of nonresidents who are doing business in this City shall be personally responsible for the compliance of their principals and of the businesses and enterprises they represent with all applicable provisions of this Chapter.

54.080. License not required for delivery of goods purchased outside City.

Except as may be provided otherwise by this Chapter, no license shall be required of any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at his regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this Chapter.

54.090 Fees for operating vehicle on public highways supplemental to fees required by other provisions.

Any general or special license fees for any kind of vehicle for the privilege of operating such vehicle upon the public highways shall be in addition to any other licenses, permits, insignias or fees for such vehicles otherwise required by city, state or federal law.

54.100. (ORD #3-89) (ORD #04-17) (ORD #10-23) Schedule of fees.

The following trades, professions, occupation, vocations or businesses shall not be operated, practiced, engaged in or otherwise conducted in the City, unless and until the owner, operator, manager, proprietor or practitioner thereof shall have applied for and obtained a license to operate, practice, engage in or otherwise conduct same from the City Clerk and shall have paid to the City the license tax hereinafter set forth, such license and tax therefore to be issued and paid on an annual basis, except where otherwise herein specifically provided.

1. Fee established. License fees shall be in the amount of \$30.00 per year per business, except as noted.

- a. Banks, Investment Companies-\$100.00 per year

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- b. Carnivals-\$100.00 per year
 - c. Circus-\$100.00 per year
 - d. Commercial Events (Professional Concerts, Boxing, Wrestling, etc.)-\$50.00 per year
 - e. Elevator, seed and grain, seed cleaners or any combination of-\$50.00 per year
 - f. Manufacturing Company and Institutions not otherwise listed-\$50.00 per year
 - g. Trailer courts-\$50.00 per year
 - h. Auctioneers-\$10.00 per day
 - i. Peddlers-\$10.00 per day
 - j. Transient vendors-\$10.00 per day
 - k. Traveling and Auction Stores-\$10.00 per day
2. EXCEPTIONS: Transient vendors operating during Holden Chamber of Commerce sponsored fair (Holden City Fair) and rodeos and city sponsored events are exempt from obtaining a business license.
3. The Holden Chamber of Commerce shall pay a fee of \$450.00 for extra security, clean-up and other cost incurred by the City during the Holden City Fair.

54.110. (ORD #13-09) City license officer; city clerk designated; duties, generally.

The city clerk shall be the city license officer and shall issue in the name of the City all licenses and permits required by this Chapter to all qualified applicants therefore, when all required taxes and fees have been paid, in accordance with the provisions of this Chapter. (ORD #13-09) No license shall be issued to any applicant under the Chapter until all sales taxes, real and personal property taxes, utility fees, permit fees, inspection fees, or other financial obligations to the City which are due and are delinquent are paid and satisfied; provided that this requirement shall not apply to any obligation which is contested by the applicant in good faith and resolution of which is being diligently pursued by such applicant. Each applicant shall provide a "no tax due: statement from the State of Missouri pursuant to Sections 144.010 to 144.510 RSMo and a current paid statement of income taxes pursuant to Sections 143.101 to 143.261 RSMo. Each applicant shall provide such documentation or certifications as the City Clerk may require to assure compliance with this Subsection.

54.120. (ORD #04-17) Taxes and fees to be paid to city clerk; issuance of receipt.

Taxes and fees required by this chapter to be paid by any person shall be payable to the city clerk who shall issue a proper receipt to each person making any such payment.

54.130. (ORD #04-17) Application; original license.

Every person required to have a license shall submit an application to the city license officer by a written statement upon forms provided by the city license officer, which shall disclose all information which the city license officer shall find to be reasonably necessary to the fair administration of this Chapter, and which shall be accompanied by a receipt from the city collector for the full amount of the fees chargeable for such license, which receipt shall not be construed as approval for the issuance of a license, nor shall it entitle or authorize to open or maintain any business contrary to this Chapter.

54.140. (ORD #04-17) Renewal.

Any applicant for the renewal of a license under this Chapter shall submit an application therefore to the city license officer upon forms provided by such officer, which shall include such information which the license officer shall find to be reasonably necessary to the fair administration of this Chapter and information as to the conduct and operation of his business during the preceding licensing period.

54.150. (ORD #04-17) Refunds upon disapproval; engaging in business during appeal, prohibited.

The city license officer shall, upon disapproving any application, direct the city collector to refund all money paid in advance; provided, the applicant is not otherwise indebted to the city. When the issuance of license is refused and any action or proceeding is brought by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused.

54.160. (ORD #04-17) Confidentiality of information.

The city license officer, and all other city officers and officials who may be officially concerned with administering and enforcing this Chapter, shall keep all information furnished or secured under the authority of this Chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known, except to the persons charged with the administration of this Chapter; provided, that this section shall not prohibit any city officer from a court of testifying as to such information in compliance with a subpoena issued from a court of competent jurisdiction or from the City Council in any proceeding before it.

54.170. (ORD #04-17) Posting or display of license.

Every license under this Chapter shall post and maintain his license upon the premises in a place where it may be seen at all times. Every licensee under this Chapter who does not have licensed business premises shall carry his license on his person and shall display it to city officers having the authority to enforce this Chapter and to persons with who he transacts business at their request.

54.200. (ORD #01-17) Adjustment of fee.

The license officer shall:

- 1.** Prorated fee. Refund a proportion of the amount of fee already paid, prorated for the balance of the license period, upon notification by the licensee of discontinued business.
- 2.** Prorated fee for new business. Prorate for the balance of any license period the license fee of any.
- 3.** Rebate of fee.

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- a. General prohibition. Except as herein provided, no rebate or refund of any license fee or part hereof shall be made by reason of rendering the use of such license ineffective.
- b. Authorized in special cases. The license officer shall have the authority to refund a license or prorated portion thereof where:
 - i. the license fee was collected through an error.
 - ii. some particular hardship might be involved.
 - iii. the license has been prevented from enjoying the full license privilege due to his death, or incapacity to engage in such business.
 - iv. the licensee has entered the armed services of the United States through induction or enlistment and is thereby rendered unable to conduct such business; and
 - v. the licensed business is forced to close before the expiration of the license period by reason of the taking over of the business or licensed business.

54.210 (ORD #16-03) (ORD #04-17) Miscellaneous fees.

A special license shall be required of any party except a nonprofit organization, to hold any garage, yard, basement, patio, or driveway sale. Said license shall be for \$5.00 and said sale can last no longer than two days. Further, any party or location shall be allowed only one such license per month. With council approval, there may be scheduled once annually a city-wide garage sale date, and no license need be obtained to participate with said city wide sale.

54.220 (ORD #01-08) (ORD #04-17) Suspension or revocation.

1. Any failure to comply with or any violation of any provisions of this Chapter may be cause for suspension or revocation of such business license by the City Council upon public hearing before the City Council following five (5) business days' notice of any violation of Chapter 54, or other City Code provisions which may also be cause for suspension or revocation of such license following the same procedure. Suspension or revocation, as provided in this Section, shall be in addition to any other penalties prescribed in this Chapter.
2. Permits and licenses issued the provisions of this Chapter may be revoked by the City Council after notice and hearing for any of the following causes (1) fraud, misrepresentation, or false statement contained in the application for license; (2) fraud, misrepresentation, or false statement made in the course of carrying on his or her business with the City of Holden; (3) any violation of this Chapter; (4) conviction of any crime or misdemeanor involving moral turpitude; or (5) conducting of business in any unlawful manner so as to constitute a breach of the peace or menace to health, safety or general welfare of the public.
3. Notice of a hearing for revocation of a license shall be given in writing setting forth specifically the ground of complaint and the time and place of hearing. Said notice shall be mailed to the licensee or applicant at least five (5) days prior to the date set for hearing, and any decision shall be made by the City Council with respect to said

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revocation or suspension and shall indicate the time of the Council's action and the length of time for suspension and shall be final. Any person or entity found guilty of violating any provisions of the Holden City Code in addition to the suspension or revocation.

54.230 (ORD #15-09) (ORD #18-09) (ORD #04-17) Annual franchise & occupational tax.

- A.** "Telephone Service" is hereby defined to include provision of cellular and wireless telephone and is hereby defined to be a public non-municipal utility service as contemplated under Section 54 and further "telephone service" is defined to mean the service ordinarily and popularly ascribed to it, including, without limitation, the transmission of messages and conversations through use of local, toll and wide area telephone service; private services, land line services; cellular telephone services; and maritime and air-to-ground telephone services. Telephone services includes the transmission of information over telephone lines and other telephonic media or facsimile transfers. Telephone services does not include value added services including computer processing applications used to act on the form, contents, code and protocol of the information for purposes other than transmission.
- B.** A subscriber of telephone service is any individual, business, corporation or other entity who uses, or maintains for use, equipment necessary to transmit information over telephone lines. Telephone lines refers to any means of transmitting telephone messages, including, but not limited to, wire, radio transmissions, microwave and optic fiber technology.
- C.** The purpose of this subsection is to clarify the telephone service as well as the provisions of cellular and wireless telephone services and shall be included as a public non-municipal utility service and shall not limit the applications of said franchise and occupation tax under 54 to all other current forms of public non-municipal utility services, including, but not limited to the provisions of electricity, natural gas, water and cable television services to citizens and entities of the City of Holden.
- D.** (Ord #18-09) The City Code imposes an annual franchise and occupation tax on telephone services, including cellular and wireless telephone service and continuing the existing franchise and occupation tax in the amount five percent (5%) on all electrical utilities, natural gas utilities, cable television services, telephone services and other future non-municipal utilities as outlined in Ordinance 15-09, is hereby enacted and approved.

Section 2. Effective date.

The Effective date of approval of this Ordinance shall be coincidental with the Mayor's signature and attestation by the City Clerk.

Section 1: Severability.

If any subsection, sentence, clause, phrase or any portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining provisions hereof.