

outline is defined and used in this document

TITLE VI. BUSINESS AND OCCUPATION

CHAPTER 600: BUSINESS REGULATIONS

ARTICLE I. BUSINESS LICENSES

SECTION 600.010: MERCHANT'S LICENSE—FEE

- A. All merchants within the City of Pasadena Hills shall be required to obtain an annual license authorizing them to do business within the City of Pasadena Hills by January first (1st) of each year. No business shall be licensed for the operation of any business contrary to the Zoning Code of the City or the trust indenture of the Subdivision of Pasadena Hills.
- B. A minimum license fee shall be paid for each business, which fee shall be in the amount of fifty dollars (\$50.00); said license fee shall be computed, however, upon the basis of the volume of the previous calendar year's business, as reported at the end of that year, at the rate of one dollar fifty cents (\$1.50) per one thousand dollars (\$1,000.00) of sales volume. The merchant's license for the first (1st) year or fraction thereof, of business, shall be seventy-five dollars (\$75.00). (R.O. 2009 §600.010; Ord. No. 202 §§1–2, 9-13-76)

SECTION 600.020: 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 Chapter 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 600.030: 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.

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SECTION 600.040: TERM OF LICENSE

The term of the licenses issued pursuant to the provisions of this Chapter shall be from January first (1st) to December thirty-first (31st) of the same year. In the event any licensee hereunder shall commence business on or after July first (1st), the City Clerk shall issue such license at the rate of one-half (1/2) of the license fee for such six (6) month period of July first (1st) to December thirty-first (31st) or fraction thereof.

SECTION 600.050: 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 600.060: 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 600.070: 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 Pasadena Hills.

SECTION 600.080: REVOCATION OF LICENSE—GROUNDS

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.

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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 600.090:

REVOCAION OF LICENSE–PROCEDURE

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 600.100:

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 Pasadena Hills 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.

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ARTICLE II. UTILITY SERVICE

**SECTION 600.110: NOTIFICATION TO CITY WHEN THERE IS A
SUCCESSOR OF
EXISTING UTILITY SERVICE**

- A. For any month when there is a change of user of residential (rate 001) or non-residential (rate 043) electric service within the City, AmerenUE shall notify the Building Commissioner (or other appropriate official) of the City in writing within seven (7) days after the end of the month of said changes, indicating the address and apartment or unit number, and the name(s) of electric user(s) per service and address and apartment or unit number in whose name service is connected or billed.
- B. Any person, firm, or corporation violating any of the provisions of this Section shall upon conviction thereof, be subject to the penalty provided in Section 100.220 of this Code.
- C. AmerenUE shall submit annually to the City an invoice for its cost associated with this Section. The initial cost of this service shall not exceed one hundred fifty dollars (\$150.00). Future price increases, if any, will only reflect the actual cost incurred by AmerenUE to provide this service. The City shall pay to AmerenUE the amount of the invoice within thirty (30) days of receipt. (Ord. No. 474A §§1–3, 10-10-95; Ord. No. 694 §2, 10-14-03)

CHAPTER 603: PEDDLERS AND SOLICITORS

SECTION 603.010: 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 603.020: 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 603.030: 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 603.040:

FEE

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 ten dollars (\$10.00) per day.
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 603.050:

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 603.060:

CONTENTS OF APPLICATION

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.

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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 603.070:

ISSUANCE OF PERMIT

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 603.080:

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 603.070, 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

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canvassing the residents of the City.

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SECTION 603.090: 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, provided that such a hearing will be scheduled within ten (10) days of the request, due notice of which is to be given to the public and the applicant.

SECTION 603.100: HEARING ON APPEAL

If the applicant requests a hearing under Section 603.090, 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 603.110: 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 603.120: 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 603.130: REVOCATION OF PERMIT

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

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issuing officer pursuant to the State Administrative Procedure Act and a hearing before the tribunal identified in Section 603.090 above.

SECTION 603.140: DISTRIBUTION OF HANDBILLS AND COMMERCIAL FLYERS

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 603.150(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 603.150: GENERAL PROHIBITIONS

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. in the hours of Central Standard Time and 9:00 A.M. and 9:30 P.M. in the hours of Central Daylight
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Time.

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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 603.160:

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 605: UTILITY TAXATION

ARTICLE I. WATER COMPANIES

SECTION 605.010: DEFINITIONS

The following terms, whenever used or referred to in this Article, shall have these respective meanings unless a different meaning clearly appears from the context:

GROSS RECEIPTS: The aggregate amount of all sales and charges from the business of supplying water or water service made by any person in the City of Pasadena Hills during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.

PERSONS: Includes any individual, firm, co-partnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit in the plural as well as the singular number. (R.O. 2009 §605.010; Ord. No. 284 §1, 6-14-82)

SECTION 605.020: LICENSE TAX

Every person now or hereafter engaged in the business of supplying water or water service for compensation for any purpose in the City of Pasadena Hills shall pay to the City of Pasadena Hills, as a license tax, a sum equal to five percent (5%) of the gross receipts derived from such business within the City of Pasadena Hills. (R.O. 2009 §605.020; Ord. No. 284 §2, 6-14-82)

SECTION 605.030: FILING OF GROSS RECEIPTS STATEMENT

Every person engaged in any business described in Section 605.020 hereof shall file with the City Clerk of the City of Pasadena Hills, on the last day of November, 1982, a sworn statement of the gross receipts of such person derived from the transaction of such business from October 1, 1982, to the last day of October, 1982, and thereafter a similar statement on the last day of each month for the preceding month and shall pay the tax at the time of filing the statement. The City Clerk of the City of Pasadena Hills, or such other City Official as may be authorized by the Board of Aldermen, shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during normal business hours to examine the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof. (R.O. 2009 §605.030; Ord. No. 284 §3, 6-14-82)

SECTION 605.040: TAX PAID TO BE IN LIEU OF OTHER TAX

The tax herein required to be paid shall be in lieu of any other occupation or license tax required of any person engaged in any of the businesses described in Section 605.020 hereof, but nothing herein contained shall be so construed as to exempt any such person from the payment to the City of Pasadena Hills of the tax which the City of Pasadena Hills levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than water or water service, nor shall the tax herein required exempt any such

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person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 605.020 hereof. (R.O. 2009 §605.040; Ord. No. 284 §4, 6-14-82)

ARTICLE II. TELEPHONE COMPANIES

Editor's Note—Ordinance No. 813 shall be in full force and effect from and after its passage and approval by the Mayor. Also, in light of the decision of the Missouri Supreme Court in City of Springfield v. Sprint Spectrum, Case No. SC87238 (August 8, 2006) and the provisions of the ordinances repealed hereby to the effect that the provisions of the Municipal Code in effect prior to the adoption of said ordinances were to continue in effect if the Statutes requiring their adoption was declared unconstitutional, the repeal and affirmation of prior provisions shall be deemed retroactive to the date of adoption of Ordinances 799 and 800.

SECTION 605.050: DEFINITIONS

The following terms, whenever used or referred to in this Article, shall have these respective meanings unless a different meaning clearly appears from the context:

GROSS RECEIPTS: The aggregate amount of all sales and charges from the business of supplying telephones or telephone service made by any person in the City of Pasadena Hills during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.

PERSONS: Includes any individual, firm, co-partnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit in the plural as well as the singular number. (R.O. 2009 §605.060; Ord. No. 283 §1, 6-14-82)

SECTION 605.060: LICENSE TAX

Every person now or hereafter engaged in the business of supplying telephones or telephone service for compensation for any purpose in the City of Pasadena Hills shall pay to the City of Pasadena Hills, as a license tax, a sum equal to five percent (5%) of the gross receipts derived from such business within the City of Pasadena Hills. (R.O. 2009 §605.070; Ord. No. 283 §2, 6-14-82; Ord. No. 813 §§1–2, 10-9-06)

SECTION 605.070: FILING OF GROSS RECEIPTS STATEMENT

Every person engaged in any business described in Section 605.060 hereof shall file with the City Clerk of the City of Pasadena Hills, on the last day of November, 1982, a sworn statement of the gross receipts of such persons derived from the transaction of such business from October 1, 1982, to the last day of October, 1982, and thereafter a similar statement of the last day of each month for the preceding month and shall pay the tax at the time of filing the statement. The City Clerk of the City of Pasadena Hills, or such other City Official as may be authorized by the Board of Aldermen, shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that

purpose shall have access at all reasonable times during normal business hours to examine

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the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof. (R.O. 2009 §605.080; Ord. No. 283 §3, 6-14-82)

SECTION 605.080:

TAX PAID TO BE IN LIEU OF OTHER TAX

The tax herein required to be paid shall be in lieu of any other occupation or license tax required of any person engaged in any of the businesses described in Section 605.060 hereof, but nothing herein contained shall be so construed as to exempt any such person from the payment to the City of Pasadena Hills of the tax which the City of Pasadena Hills levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than telephones or telephone service, nor shall the tax herein required exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 605.060 hereof. (R.O. 2009 §605.090; Ord. No. 283 §4, 6-14-82)

ARTICLE III. GAS COMPANIES

SECTION 605.090:

DEFINITIONS

The following terms, whenever used or referred to in this Article, shall have these respective meanings unless a different meaning clearly appears from the context:

GROSS RECEIPTS: The aggregate amount of all sales and charges from the business of supplying gas or gas service made by any person in the City of Pasadena Hills during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.

PERSONS: Includes any individual, firm, co-partnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit in the plural as well as the singular number. (R.O. 2009 §605.110; Ord. No. 282 §1, 6-14-82)

SECTION 605.100:

LICENSE TAX

Every person now or hereafter engaged in the business of supplying gas or gas service for compensation for any purpose in the City of Pasadena Hills shall pay to the City of Pasadena Hills, as a license tax, a sum equal to five percent (5%) of the gross receipts derived from such business within the City of Pasadena Hills. (R.O. 2009 §605.120; Ord. No. 282 §2, 6-14-82; Ord. No. 427 §1, 10-17-92; Ord. No. 428 §1, 11-10-92)

SECTION 605.110:

FILING OF GROSS RECEIPTS STATEMENT

Every person engaged in any business described in Section 605.100 hereof shall file with the City Clerk of the City of Pasadena Hills, on the last day of December, 1982, a sworn statement of the gross receipts of such person derived from the transaction of such business from October 1, 1982, to the last day of October, 1982, and thereafter a similar statement of the last day of each month for the preceding month and shall pay the tax at the time of filing the statement. The City Clerk of the

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City of Pasadena Hills, or such other City Official as may be authorized by the Board of Aldermen, shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during normal business hours to examine the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof. (R.O. 2009 §605.130; Ord. No. 282 §3, 6-14-82)

SECTION 605.120:

TAX PAID TO BE IN LIEU OF OTHER TAX

The tax herein required to be paid shall be in lieu of any other occupation or license tax required of any person engaged in any of the businesses described in Section 605.100 hereof, but nothing herein contained shall be so construed as to exempt any such person from the payment to the City of Pasadena Hills of the tax which the City of Pasadena Hills levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than gas or gas service, nor shall the tax herein required exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 605.100 hereof. (R.O. 2009 §605.140; Ord. No. 282 §4, 6-14-82)

CHAPTER 610: VIDEO SERVICE PROVIDERS

ARTICLE I. EXISTING FRANCHISES

SECTION 610.005: RATIFICATION OF EXISTING FRANCHISES

- A. To the extent permitted by the 2007 Video Services Providers Act, the Board of Aldermen of the City of Pasadena Hills, Missouri, hereby ratifies all existing agreements, franchises, code provisions and ordinances regulating cable television operators and other video service providers, including the imposition of a franchise fee of five percent (5%) imposed on the gross revenues of all such providers and further declares that such agreements, franchises and ordinances shall continue in full force and effect until expiration as provided therein or until pre-empted by the issuance of video service authorizations by the Missouri Public Service Commission or otherwise by law, but only to the extent of said pre-emption.

- B. It shall be unlawful for any person to provide video services, as defined in Section 610.010 hereof, within the City without either an agreement, franchise or ordinance approved by the City or a video service authorization issued by the Missouri Public Service Commission.

ARTICLE II. VIDEO SERVICES PROVIDERS

SECTION 610.010: DEFINITIONS

As used in this Article, the following terms shall have the following meanings unless otherwise defined by context:

FRANCHISE AREA: The total geographic area of the City authorized to be served by an incumbent cable television operator or incumbent local exchange carrier or affiliate thereof.

GROSS REVENUES: The total amounts billed to subscribers or received from advertisers for the provision of video services within the City, including:

1. Recurring charges for video service;
 2. Event-based charges for video service including, but not limited to, pay-per-view and video-on-demand charges;
 3. Rental of set top boxes and other video service equipment;
 4. Service charges related to the provision of video service including, but not limited to, activation, installation, repair and maintenance charges;
 5. Administrative charges related to the provision of video service including, but not limited to, service order and service termination charges; and
 6. A pro rata portion of all revenue derived, less refunds, rebates or discounts, by a video service
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provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the City and the denominator is the total number of subscribers reached by such advertising; but gross revenues do not include:

- a. Discounts, refunds and other price adjustments that reduce the amount of compensation received by a video service provider;
- b. Uncollectibles;
- c. Late payment fees;
- d. Amounts billed to subscribers to recover taxes, fees or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein;
- e. Fees or other contributions for PEG or I-Net support; or
- f. Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means. Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles.

HOUSEHOLD: An apartment, a house, a mobile home or any other structure or part of a structure intended for residential occupancy as separate living quarters.

LOW INCOME HOUSEHOLD: A household with an average annual household income of less than thirty-five thousand dollars (\$35,000.00) as determined by the most recent decennial census.

PERSON: An individual, partnership, association, organization, corporation, trust or government entity.

SUBSCRIBER: Any person who receives video services in the franchise area.

VIDEO SERVICE: The provision of video programming provided through wireline facilities, without regard to delivery technology, including Internet protocol technology, whether provided as part of a tier, on demand or a per channel basis, including cable service as defined by 47 U.S.C. Section 522(6), but excluding video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d) or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail or other services offered over the public Internet.

VIDEO SERVICE AUTHORIZATION: The right of a video service provider or an incumbent cable operator that secures permission from the Missouri Public Service Commission pursuant to Sections 67.2675 to 67.2714 to offer video service to subscribers.

VIDEO SERVICE NETWORK: Wireline facilities or any component thereof that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable television systems.

VIDEO SERVICE PROVIDER FEE: The fee imposed under Section 610.030 hereof.

VIDEO SERVICE PROVIDER OR PROVIDER: Any person authorized to distribute video service through a video service network pursuant to a video service authorization.

SECTION 610.020: GENERAL REGULATIONS

- A. A video service provider shall provide written notice to the City at least ten (10) days before commencing video service within the City. Such notice shall also include:
 - 1. The name, address and legal status of the provider;
 - 2. The name, title, address, telephone number, e-mail address and fax number of individual(s) authorized to serve as the point of contact between the City and the provider so as to make contact possible at any time (i.e., twenty-four (24) hours per day, seven (7) days per week); and
 - 3. A copy of the provider's video service authorization issued by the Missouri Public Service Commission.

- B. A video service provider shall also notify the City, in writing, within thirty (30) days of:
 - 1. Any changes in the information set forth in or accompanying its notice of commencement of video service; or
 - 2. Any transfer of ownership or control of the provider's business assets.

- C. A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the area in which the group resides. A video service provider shall be governed in this respect by Section 67.2707, RSMo. The City may file a complaint in a court of competent jurisdiction alleging a germane violation of this Subsection, which complaint shall be acted upon in accordance with Section 67.2711, RSMo.

- D. A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators. Any video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this Section by December 31, 2007.

- E. A video service provider shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments (claims) for damages or equitable relief arising out of:
 - 1. The construction, maintenance, repair or operation of its video services network;
 - 2. Copyright infringements; and
 - 3. Failure to secure consents from the owners, authorized distributors or licenses or programs to

be delivered by the video service network. Such indemnification shall include, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim prior to the video service provider assuming such defense. The City shall notify the provider of a claim within seven (7) business days of its actual knowledge of the existence of such claim. Once the provider assumes the defense of the claim, the City may at its option continue to participate in the defense at its own expense. This indemnification obligation shall not apply to any claim related to the provision of public, educational or governmental channels or programming or to emergency interrupt service announcements.

SECTION 610.030: VIDEO SERVICE PROVIDER FEE

- A. Each video service provider shall pay to the City a video service provider fee in the amount of five percent (5%) of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may adjust the video service provider fee as permitted in Section 67.2689, RSMo.
- B. A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.
- C. The City, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in Section 67.2691, RSMo. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

SECTION 610.040: CUSTOMER SERVICE REGULATIONS

- A. For purposes of this Section, the following terms shall mean:

NORMAL BUSINESS HOURS: Those hours during which most similar businesses in the community are open to serve customers. In all cases the term normal business hours must include some evening hours at least one (1) night per week or some weekend hours.

NORMAL OPERATING CONDITIONS: Those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the video system.

SERVICE INTERRUPTION: The loss of picture or sound on one (1) or more video channels.

- B. All video service providers shall adopt and abide by the following minimum customer service requirements.
 - 1. Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers twenty-four (24) hours a day, seven (7) days a week.

2. Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day.
3. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.
4. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
5. Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.
6. Under normal operating conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:
 - a. Standard installations shall be performed within seven (7) business days after an order has been placed. "Standard" installation are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.
 - b. Excluding conditions beyond the control of the operator, the video service provider shall begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.
 - c. The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.
 - d. A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - e. If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time convenient for the customer.
7. Refund checks shall be issued promptly, but no later than either:
 - a. The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or

- b. The return of the equipment supplied by the video service provider if the service is terminated.
 - 8. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
 - 9. Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.
- C. As required by Section 67.2692, RSMo., this Section 610.040 shall be enforced only as follows:
- 1. Each video service provider shall implement an informal process for handling inquiries from the City and customers concerning billing issues, service issues and other complaints. If an issue is not resolved through this informal process, the City may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the City and the video service provider.
 - 2. In the case of repeated, willful and material violations of the provisions of this Section by a video service provider, the City may file a complaint on behalf of a resident harmed by such violations with Missouri's Administrative Hearing Commission seeking an order revoking the video service provider's Public Service Commission authorization. The City or a video service provider may appeal any determination made by the Administrative Hearing Commission under this Section to a court of competent jurisdiction which shall have the power to review the decision de novo. The City shall not file a complaint seeking revocation unless the video service provider has been given sixty (60) days' notice to cure alleged breaches but has failed to do so.

SECTION 610.050: PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS PROGRAMMING

- A. Each video service provider shall designate the same number of channels for non-commercial public, educational or governmental ("PEG") use as designated by the incumbent cable operator.
 - B. Any PEG channel that is not substantially utilized by the City may be reclaimed and programmed by the video service provider at the provider's discretion. If the City finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred twenty (120) days. A PEG channel shall be considered "substantially utilized" when forty (40) hours per week are locally programmed on that channel for at least three (3) consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four (4) times during a calendar week.
 - C. The operation of any PEG access channel and the production of any programming that appears on each such channel shall be the sole responsibility of the City or its duly appointed agent receiving the
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benefit of such channel and the video service provider shall bear only the responsibility for the

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transmission of the programming on each such channel to subscribers. The City must deliver and submit to the video service provider all transmissions of PEG content and programming in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal. Such content and programming must be compatible with the technology or protocol utilized by the video service provider to deliver its video services. The video service provider shall cooperate with the City to allow the City to achieve such compatibility.

- D. The City shall make the programming of any PEG access channel available to all video service providers in a non-discriminatory manner. Each video service provider shall be responsible for providing the connectivity to the City's or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one (1) point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable method of connection acceptable to the person providing the interconnect.
- E. The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007 shall continue until the date of franchise expiration (ignoring any termination by notice of issuance of a video service authorization) or January 1, 2012, whichever is earlier. Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one (1) incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in Section 67.2703.8, RSMo. The City shall notify each video service provider of the amount of such fee on an annual basis, beginning one (1) year after issuance of the video service authorization.
- F. A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis.

SECTION 610.060:**COMPLIANCE WITH OTHER REGULATIONS**

All video service providers shall comply with all other applicable laws and regulations.

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