# TITLE VI: BUSINESS AND OCCUPATION

CHAPTER 600: ALCOHOLIC BEVERAGES

SECTION 600.010: DEFINITIONS

For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

*INTOXICATING LIQUOR*: Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of three and two tenths percent (3.2%) of alcohol by weight.

*MALT LIQUOR*: Any beverage manufactured from pure hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, containing alcohol in excess of three and two tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight.

*NON-INTOXICATING BEER*: Any beer manufactured from pure hops or pure extracts of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half (1/2) of one percent (1%) of volume, and not exceeding three and two tenths percent (3.2%) by weight. (Ord. No. 80-10 §1; CC §50.010)

SECTION 600.020: POSSESSION OF ILLEGAL OR UNTAXED LIQUORS

No person shall possess intoxicating liquor in any quantity for any purpose within the City which has not been lawfully manufactured. (Ord. No. 80-10 §1; CC §50.020)

SECTION 600.030: SALE TO DRUNKARDS, MINORS

1. No person or his employee shall sell or supply intoxicating liquor or non-intoxicating beer or permit the same to be sold or supplied to an habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.
2. Intoxicating liquor or non-intoxicating beer shall not be given, sold, or otherwise supplied to any person under the age of twenty-one (21) years, but this shall not apply to supplying of intoxicating liquor or non-intoxicating beer to a person under such age for medicinal purposes only, or by the parent or guardian of such person, or to administering of such intoxicating liquor or non-intoxicating beer to such person by a physician.
3. Any person under the age of twenty-one (21) years, who purchases or attempts to purchase or has in his possession, any intoxicating liquor is guilty of a misdemeanor.
4. Any person under the age of twenty-one (21) years, who purchases or attempts to purchase any non-intoxicating beer is guilty of a misdemeanor.
5. The possession, actual or constructive, of any intoxicating liquor, beer, and wine or non-intoxicating beer commonly called "3.2 beers," by any person under the age of twenty-one (21) years is hereby prohibited. (Ord. No. 80-10 §1; CC §50.030)

SECTION 600.040: HOURS OF SALE

1. Intoxicating Liquors: No person having a license under this Chapter, nor any employee of such person, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his licensed premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays, or upon any day of any election for which the sale is prohibited by State law.
2. Non-intoxicating Beer: No person having a license under the provisions of this Chapter shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any non-intoxicating beer in any quantity between the hours of 1:30 A.M. and 6:00 A.M.
3. Sunday Sales: No intoxicating or non-intoxicating liquors may be sold on any Sunday in the City of Marble Hill, Missouri, until after 12:00 P.M. No intoxicating or non-intoxicating liquor may be sold after 11:00 P.M. on any Sunday in the City of Marble Hill, Missouri. When December 31, falls on 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 license on that day after 1:00 P.M. and until the time of 1:00 A.M of the following day. (Ord. No. 80-10 §1; CC §50.040; Ord. No. 89-22 §2; Ord. No. 89-34 §1)

SECTION 600.050: RESTRICTIONS AS TO PLACE OF SALE--INTOXICATING LIQUOR

No person, agent or employee of any person in any capacity, shall sell intoxicating liquor in any other place than that designated in the license; nor at any other time or otherwise than is authorized in this Chapter and the regulations herein provided for. (Ord. No. 80-10 §1; CC §50.050)

SECTION 600.060: SAME--BEER BY THE DRINK

No license shall be issued for the sale of malt liquor or non-intoxicating beer at retail by the drink, for consumption on the premises in the City, except where the place of such business, according to the application for such license, is to be located within the business district of this City. (Ord. No. 80-10 §1; CC §50.060)

SECTION 600.070: SAME—MALT LIQUOR BY THE DRINK

Malt liquor containing alcohol in excess of three and two tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight may be sold by the drink at retail for consumption on the premises where sold, when the person, partnership or corporation desiring to sell such malt liquor by the drink at retail for consumption upon the premises where sold, shall have been licensed to do so by the City, and under the provisions of this Chapter. (Ord. No. 80-10 §1; CC §50.070)

SECTION 600.080: ORIGINAL PACKAGE SALES—GENERALLY

Intoxicating liquor shall be sold at retail in the original package, only upon a license granted by the Board of Aldermen, and such intoxicating liquor so sold shall not be consumed upon the premises where sold, nor the original package opened on such premises of the vendor, except as otherwise may be provided in this Chapter. (Ord. No. 80-10 §1; CC §50.080)

SECTION 600.090: SAME--LOCATION

No licenses shall be issued under this Chapter, where the place of such business sought to be licensed, according to the application for such license, is located outside the business district of the City as defined in this Code. (Ord. No. 80-10 §1; CC §50.090)

SECTION 600.100: EXCEPTIONS TO CHAPTER; DRUGGISTS AND PHYSICIANS

Any druggist may have in his possession intoxicating liquor purchased by him from a licensed vendor under a license pursuant to this Chapter, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State and lawfully inspected and labeled as provided for in the Liquor Control Act of the State; such intoxicating liquor to be used in the business of a druggist in compounded medicines or as a solvent or preservative. Nothing in this Chapter shall prevent a regularly licensed druggist, after he procures a license therefor in compliance with this Chapter, from selling intoxicating liquor in the original package, but not to be consumed or the packages opened on the premises where sold. Nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his 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. (Ord. No. 80-10 §1; CC §50.100)

SECTION 600.110: VIOLATION; REVOCATION OF LICENSE

Any person violating any of the provisions of this Chapter shall upon conviction thereof be adjudged guilty of a misdemeanor, and shall be punished as provided in Section 100.050 of this Code.

* 1. Provided, that upon final conviction of any person for a violation of any of the provisions of this Chapter, such conviction shall automatically operate to revoke the license hereunder issued to such person.
  2. Provided further, that the term "conviction" as used herein shall mean conviction upon final determination of any prosecution of any violation of this Chapter.
  3. Provided further, that no person having been convicted of a violation of any of the provisions of this Chapter shall be issued a license or a renewal thereof for a period of one (1) year, from the date of such conviction. (Ord. No. 80-10 §1; CC §50.110)

SECTION 600.120: REPEALED BY ORD. NO. 2021-04 §1, 6-21-2021

SECTION 600.130: LICENSE REQUIRED

It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale, either at wholesale or retail, in the City, intoxicating liquor, malt liquor or non-intoxicating beer as herein defined, in any quantity, without first having obtained a license from the City therefore, except as otherwise provided herein. (Ord. No. 80-10 §1; CC §50.130)

SECTION 600.140: QUALIFICATIONS OF APPLICANT

No person shall be granted a license under this Chapter, unless such person is of good moral character and meets the requirements as specified by state law. (Ord. No. 80-10 §1; CC §50.140)

SECTION 600.150: ELIGIBILITY FOR ORIGINAL PACKAGE SALES LICENSE

No license shall be issued for the sale of intoxicating liquor in the original package except to a person engaged in, and for use thereby in connection with, the operation of one or more of the following businesses: A drug store, cigar and tobacco store, grocery store, general merchandise store, confectionery or delicatessen store, nor shall such license be issued to any such person who does not have and keep in his store a stock of goods having a value, according to invoices at the time of making the application for license, of at least two thousand five hundred dollars ($2,500.00), exclusive of fixtures and intoxicating liquors. (Ord. No. 80-10 §1; CC §50.150; Ord. No. 2021-04 §2-3)

SECTION 600.160: APPLICATIONS; PROCEDURE OF BOARD

All applications for licenses under the provisions of this Chapter, shall be made in writing to the Board of Aldermen. All applications, except for sale of malt liquors not in excess of five percent (5%) of alcohol by weight, shall be accompanied by an inventory and appraised valuation of stock of goods at the place of business proposed in such application, other than intoxicating liquor, which inventory and appraisal shall be under oath; such inventory and appraised valuation shall be the value according to invoice at the time of making the application for such license. No license shall be granted at the same meeting of the Board of Aldermen at which the application is presented, except by unanimous vote of the Board. Provided, however, that such application may be passed on by the Board of Aldermen at the first meeting of the Board at which the application is presented, if such applicant has first served notice, in writing, of his intention to present such application (including a copy of the application) upon 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. (Ord. No. 80-10 §1; CC §50.160)

SECTION 600.170: LICENSE FEES

Retail liquor by the drink – resort (as defined in 311.095) $450.00

Retail liquor by the drink – exempt organizations $450.00

Five percent (5%) beer by the drink Non-Sunday Sales $75.00

Five percent (5%) beer by the drink – wine Non- Sunday Sales $75.00

Three point two percent (3.2%) Non-intoxicating beer by the drink $37.50

Restaurant bar – resort $300.00

Sunday – bar- exempt organizations $300.00

Five percent (5%) beer by the drink – Sunday exempt organizations $300.00

Five percent (5%) beer by the drink – Sunday sales-non exempt org. $200.00

Five percent (5%) beer by the drink-wine-Sunday sales- non exempt $200.00

Original package liquor $100.00

Original package - five percent (5%) beer $100.00

Original package - three point two percent (3.2%) beer $100.00

Package liquor Sunday sales $100.00

1. Nothing in this Section shall be construed to allow for any retail sale of liquor by the drink except for those persons or organizations specifically qualifying under the resort or the exempt organization qualifications.
2. All definitions of any of the licenses that are referred to in this Section shall be those definitions as are set forth in Chapter 311 of the Revised Statutes of the State of Missouri. (Ord. No. 89-13 §§1-3; Ord. No. 89-22 §1; Amended by Ord. 07-03, March 8, 2007; Ord. 2021-04 §4-5)

SECTION 600.180: GRANTING; CONDITIONS TO BE MET

On approval of the application by the Board of Aldermen and payment of the license tax herein provided, the City Clerk shall grant the applicant a license to conduct business in the City for one (1) year from date of issuance of such license or for a fraction thereof as provided in Section 600.200. A separate license shall be required for each place of business.

* 1. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold there under, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
  2. Provided that the City Clerk shall not deliver to any person a license under the provisions of this Chapter, until such person shall produce the receipt of the City showing that the taxes levied on such license have been paid. (Ord. No. 80-10 §1; CC §50.180)

SECTION 600.190: LICENSES NONTRANSFERABLE

No license issued under this Chapter shall be transferable or assignable. (Ord. No. 80-10 §1; CC §50.190)

SECTION 600.200: DURATION, PRORATION AND REFUND OF FEES

All licenses issued under the provisions of this Chapter shall expire on the thirtieth (30th) day of June following the issuance thereof. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued.

SECTION 600.210: REVOCATION AND SUSPENSION GENERALLY

The Board of Aldermen may, on hearing, revoke or suspend any license issued under the provisions of this Chapter, for good cause shown, having first given such licensee not less than ten (10) days notice in writing of the application to revoke or suspend his license, prior to the order of revocation issuing.

* 1. Such notice shall contain the grounds for such revocation or suspension set out therein, and shall command the licensee to be present at a regular or special meeting of the Board of Aldermen (at the date, time, and location set forth in the notice) and show cause, if any, why such license should not be suspended or revoked.
  2. The licensee shall have full right to be represented by counsel at such hearing, and may produce witnesses and evidence in his behalf at such hearing.
  3. Service of the notice of revocation or suspension hearing shall be by the Chief of Police or his subordinate, and may be served upon the licensee by leaving a copy thereof with the licensee or any person or employee in charge of the place of business of such licensee. (Ord. No. 80-10 §1; CC §50.210)

SECTION 600220: REVOCATION TO FORFEIT LICENSE FEE

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 any part of the fee paid for such license. (Ord. No. 80-10 §1; CC §50.220)

CHAPTER 605: LICENSES (Ord 2014-12, Section 1)

**605.010: DEFINITIONS:**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*BUILDING CONTRACTOR.* A person who limits his contracting to repairing and general carpentry work, and excluding the categories of brick laying, concrete finishing, excavating, electrical work, painting, plastering, plumbing and roofing.

*BUTCHER.* A butcher is defined to mean anyone who cuts meat but does not slaughter at his own place of business for his own use any animal larger than a chicken, and who cuts such meat for sale at wholesale or retail.

*CONTRACTOR.* A person who in pursuit of an independent business undertakes to perform a job or piece of work, retaining in himself control of means, method and matter of accomplishing the desired result.

*GENERAL CONTRACTOR.* A person who shall perform more than one of the categories of building, laying brick, finishing concrete, excavating, performing electrical work, painting, plumbing, plastering or roofing. A purchase of a general contractor's license shall entitle that person to do any and all forms of contracting within the confines of the city.

*HOME OCCUPATION.* Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on wholly within the main building or an existing accessory building by an immediate member of the family residing on the premises;

*INSURANCE AGENT.* A person who writes insurance business in only one (1) insurance company.

*INSURANCE BROKER.* A person who writes general insurance business in two (2) or more insurance companies.

*INSURANCE COMPANY.* A person engaged in the business of writing contracts for a stated consideration agreeing to indemnify another person against loss, damage or liability arising from an unknown contingent event.

*MERCHANT.* A person who, as a business for valuable consideration, buys, sells or otherwise deals in goods, wares and merchandise, and/or furnishes services of all types and kinds.*Annotation—For case holding that city may classify businesses and occupations as "merchants," see Riden v. City of Rolla, 348 S.W.3d 946.*

*SLAUGHTERHOUSE.* A place where animals of all kinds are slaughtered for wholesale or retail purposes; an abattoir.(Ord. No. 80-10 §1; CC §54.010: Repealed and replaced by Ord. 2014-12, Section 2)

**605.015 INTERPRETATION OF CHAPTER**

In construing the provision of this chapter, any nondefined terms shall be given meanings generally ascribed to such terms. (Ord. 2013-04, March 25, 2013: Repealed and replaced by Ord. 2014-12, Section 3)

**605.020: LICENSES REQUIRED; FEES TO BE PAID.**

Every person who shall maintain, operate or conduct any of the businesses, trades, vocations, avocations or places of amusement or exercise the privileges specified in this Chapter, shall obtain a license to do so, and pay the license fee as prescribed in Section 605.110. (Ord. 2014-12, Section 4)

**605.030: APPLICATIONS FOR LICENSE—CONTENTS.**

Any person seeking a license required by Section 605.020 shall file with the City Clerk or the board of aldermen, an application for such license, which application shall state the license sought to be obtained, the place of location in the city in which the license shall be effective, where the business shall be conducted, and shall briefly describe the nature of the business setting forth the kind of merchandise to be sold or the nature of the business, vocation or service to be rendered by the applicant for the license. (Ord. 2014-12, Section 5)

**605.040: CITY CLERK TO ISSUE LICENSES**

The City Clerk shall issue all appropriate licenses to applicants. Any person feeling aggrieved by the Clerk’s classification of something as a business under Chapter 605, may pay his fee under protest and appeal within thirty (30) days to the board of aldermen, which shall have power to order the license cancelled and the fee repaid. (Ord. 2014-12, Section 6)

**605.050: LICENSES TO BE ISSUED BY CITY CLERK SUBJECT TO APPROVAL OF BOARD OF ALDERMAN.**

All licenses required by the city, unless otherwise specified in this chapter, shall be issued by the city clerk, subject to the approval of the board of aldermen. The board of aldermen shall have the right to revoke or disapprove any license issued by the city clerk in a month previous to the regular meeting of any board of aldermen. It shall be the duty of the city clerk to issue a license in conformity with the requirements contained in this article and upon payment of the proper license fee required. (Ord. 2014-12, Section 7)

**605.060: TERM OF LICENSES; PRORATING OF FEES.**

The regular license period for the city is from July first through June thirtieth of the following year, and when any person shall apply for a license from the city and the period for which the license shall run shall be less than twelve months, the license fee shall be as follows:

1. If such period shall be more than six (6) months, then the license fee charged shall be the same as for twelve months.
2. If such period shall be less than six (6) months, then the license fee charged shall be one-half of the license fee charged for the full twelve months. (Ord. 2014-12, Section 8)

**605.070: NONTRANSFERABILITY OF LICENSES.**

All licenses issued by the city shall be deemed to be mere personal privileges and shall not be transferable or assignable. (Ord. 2014-12, Section 9)

**605.080: DISPLAY OF LICENSES.**

No person operating under a city license shall refuse to exhibit his license to any city official or his deputy upon demand. All licenses so issued shall be posted in the place of business in a conspicuous place for all members of the public to view. (Ord. 2014-12, Section 10)

**605.090: REVOCATION OF LICENSES.**

All licenses are revocable at any time by the board of aldermen upon satisfactory proof that the licensee has violated this Code or any other ordinances relating to the business or acts done under the license, or that the licensee has been misrepresenting his goods or services sold or offered for sale in the city, has been practicing any fraud upon the public or has been selling for food for human beings or animals any unwholesome or unfit substances, or has been conducting a business not covered by his license, or has been conducting any immoral or disorderly place or business, or has been conducting any place of business dangerous to public health or safety or detrimental to public morals.

If any license issued pursuant to this chapter is terminated by revocation, death of the licensee or other cause, all fees or taxes paid the city shall be forfeited to the use of the city.

No person whose license has been revoked by the board of aldermen shall thereafter be entitled to engage in the business or do the acts for which the license was issued in the city, unless the board of aldermen, for a good cause shown, shall remove such disqualifications.

Any person engaged in any business, conducting any place or doing any act for which a license is or may hereafter be required in the city, who shall be convicted of violating this chapter or any other ordinance relating to his business shall, without action by the board of aldermen, have his license revoked. (Ord. 2014-12, Section 11)

**605.100: CITY CLERK TO KEEP RECORD OF LICENSES ISSUED.**

The city clerk shall keep an accurate record of all licenses issued, showing the nature of the business, the name and address of the licensee and any other information he or she deems proper. (Ord. 2014-12, Section 12)

**605.110: AMOUNT OF LICENSE FEE.**

Every person who shall deal in or act in any of the businesses or occupations or own, operate or deal in any of the things mentioned in this chapter (specifically below in subsection (I) of this Section), shall first obtain licenses from the city clerk and pay an administrative fee of $25.00 therefore for the use of the city.

1. The following types of businesses or occupations must have a business license:
   1. Real estate agents and/or brokers,
   2. Insurance company agents and/or brokers,
   3. Agents for loan companies or small loan companies,
   4. Agents for nursery stock,
   5. Agents for manufacturers,
   6. Auctioneers,
   7. Auto salvage yards,
   8. Auto dealers, new or used,
   9. Banks,
   10. Bakeries,
   11. Barbershops,
   12. Beauty shop,
   13. Billiard hall,
   14. Blacksmiths,
   15. Bowling alleys,
   16. Butchers,
   17. Cabinet shops,
   18. Carnivals,
   19. Circuses,
   20. Cleaning, pressing and dyeing shops,
   21. Cobblers and shoe repair shops,
   22. Collection agencies or individuals,
   23. Commission merchants,
   24. Contractors (general, building, brick, concrete, electrical, excavating, grading, painting, plastering, plumbing, roofing),
   25. Concrete ready-mix plants,
   26. Dairies,
   27. Dance, reception and meeting halls,
   28. Draymen or truckers,
   29. Drink stands,
   30. Egg grading and processing plants,
   31. Express companies,
   32. Exterminators,
   33. Farm implement dealers,
   34. Florists,
   35. Fruit stands,
   36. Feed mills,
   37. Fitness centers and spas,
   38. Garages (auto repair, detailing, mechanical and body work),
   39. Grain Elevators
   40. Grocery Stores,
   41. Hatcheries,
   42. Ice Cream Vendors,
   43. Ice dealers,
   44. Itinerant stores/traveling stores/peddlers,
   45. Jewelers,
   46. Junk dealers,
   47. Laundries,
   48. Laundromats,
   49. Loan or mortgage offices,
   50. Locker plants,
   51. Liquor stores,
   52. Lumber yards,
   53. Magazine agents or salesmen, itinerant,
   54. Machine shops,
   55. Manufacturers,
   56. Menageries or zoos,
   57. Merchants, all classes, including wholesale
   58. Miniature golf courses,
   59. Monument dealers,
   60. Motels and hotels,
   61. Arcades,
   62. Newspaper publishers,
   63. News agencies, (including television and radio facilities),
   64. Nursing homes,
   65. Outdoor advertising companies,
   66. Parades by circuses or other money making concerns,
   67. Photographers,
   68. Photographers, itinerant,
   69. Picture shows, theatres,
   70. Plumbers,
   71. Printers, where not a newspaper publisher,
   72. Pool hall,
   73. Restaurants,
   74. Service Stations,
   75. Slaughterhouses,
   76. Shooting galleries,
   77. Skating rink,
   78. Solicitors,
   79. Stock yards,
   80. Taxicabs,
   81. Tinner and tin shops,
   82. Transfer companies or movers,
   83. Trailer courts,
   84. Undertaking parlors,
   85. Warehouses,
   86. Wholesale dealer in gasoline and oil,
   87. Wholesale houses,
   88. Wood and coal dealers. (Ord. 2014-12, Section 13)

**605.120: ENFORCEMENT OF CHAPTER.**

The city clerk and the chief of police shall see that this chapter is fully complied with and advise the city attorney to file complaints against all persons known to be violating this chapter. (Ord. 2014-12, Section 14)

**605.130: NO TAX DUE REQUIREMENT.**

1. No license shall issue to any applicant under this chapter until all sales taxes, real and personal property taxes, utility fees, permit fees, inspection fees, or other financial obligations of the applicant to the city which are due and payable and are delinquent are paid or 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 other documentation or certifications as the City Clerk may require to assure compliance with this section.
2. Any person, firm or corporation failing to provided proof of payment of such sales tax shall not be issued a city business license until such time as said state and city sales taxes and penalties and interest thereon are fully paid and the Department of Revenue for the State of Missouri certifies that same are fully paid.
3. Any person, firm or corporation which has its retail sails license revoked by the State of Missouri pursuant to 144.083(3) RSMo., shall also have its city occupation license revoked. The City of Marble Hill may enforce the provisions of this section and may prohibit further sales at retail by such person. (Ord. 2014-12, Section 15)

**605.140: CONTENTS OF LICENSE.**

Every license shall specifically state the name of the person, persons, firms or corporations to whom it is issued, the amount of the license fee, and the date of the issuance and the term for which it is issued. No license shall authorize any holder thereof to carry on business at more than one place at the same time. (Ord. 2014-12, Section 16)

CHAPTER 610: PEDDLERS AND SOLICITORS

SECTION 610.010: PERMIT REQUIRED

It shall be unlawful for any person to engage in the business of peddler as defined in Section 610.020 of this Chapter within the corporate limits of this City without first obtaining a permit therefore as provided herein. (Ord. No. 80-10 §1; CC §52.010)

SECTION 610.020: "PEDDLER" DEFINED

The word "peddler" as used herein shall include any person, whether a resident of this City or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or offering for sale for later delivery, or seeking appointments for the purpose of at that time offering for sale; or who, without traveling from place to place shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance; and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions of this Chapter. The word "peddler" shall include the words "hawker," "huckster," and "solicitor." (Ord. No. 80-10 §1; CC §52.020)

SECTION 610.030: APPLICATION FOR PERMIT

Applicants for permits under this Chapter must file with the City Clerk a sworn application in writing (in duplicate) on a form to be furnished by the City Clerk, which shall give the following information:

* 1. Name and description of the applicant.
  2. Address (local and permanent).
  3. A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant.
  4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
  5. The length of time for which the right to do business is desired.
  6. If a vehicle is to be used, a description of the same, together with credentials establishing the license number or other means of identification.
  7. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore. (Ord. No. 80-10 §1; CC §52.030)

SECTION 610.040: INVESTIGATION AND ISSUANCE

Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

* 1. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued.
  2. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the. Chief of Police shall endorse on the application his approval. Upon receipt of the approved application the City Clerk, upon payment of the prescribed permit fee, shall deliver to the applicant his permit. The Clerk shall keep a permanent record of all licenses issued. (Ord. No. 80-10 §1; CC §52.040)

SECTION 610.050: FEES GENERALLY

The fees for licenses required under this Chapter shall be as established from time to time by ordinance of the Board of Aldermen and on file in the office of City Clerk. (Ord. No. 80-10 §1; CC §52.050)

SECTION 610.060: PERMIT NONTRANSFERABLE

No permit issued under this Chapter shall be transferable or assignable. (Ord. No. 80-10 §1; CC §52.060)

SECTION 610.070: USE OF STREETS

No peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this Chapter, the judgment of a Police Officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. No. 80-10 §1; CC §52.080)

SECTION 610.080: LOUD NOISES AND SPEAKING DEVICES

No peddler, nor any person in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of said City or upon any private premises in the said City where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. No. 80-10 §1; CC §52.090)

SECTION 610.090: EXHIBITION OF PERMIT

Peddlers are required to exhibit their licenses at the request of any citizen. (Ord. No. 80-10 §1; CC §52.100)

SECTION 610.100: REVOCATION OF LICENSES

Permits and licenses issued under the provisions of this Chapter may be revoked by the Mayor of this City 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 business as peddler.
  3. Any violation of this Chapter.
  4. Conviction of any crime or misdemeanor involving moral turpitude.
  5. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public. (Ord. No. 80-10 §1; CC §52.110)

SECTION 610.110: NOTICE

Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the ground of a complaint and the time and place of hearing. Such notice shall be mailed, postpaid to the permittee at his permanent address (as shown on the application) at least five (5) days prior to the date set for hearing. (Ord. No. 80-10 §1; CC §52.120)

SECTION 610.120: APPEAL

Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of an application for a permit as provided in Section 610.040, or in the decision with reference to the revocation of a license as provided in Section 610.110, shall have the right of appeal to the Board of Aldermen. Such appeal shall be taken by filing with the City Clerk, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 610.120. (Ord. No. 80-10 §1; CC §52.130)

SECTION 610.130: EXPIRATION OF PERMITS

All annual permits issued under the provisions of this Chapter shall expire on the 31st of December in the year when issued. Other than annual permits shall expire on the date specified in the permit. (Ord. No. 80-10 §1; CC §52.140)

SECTION 610.140: SALES LIMITED

No peddler or solicitor, licensed or unlicensed, may peddle his wares within the City at any place other than in the business district. (Ord. No. 80-10 §1; CC §52.150)

CHAPTER 615: JUNKYARDS

SECTION 615.010: DEFINITIONS

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Chapter:

*JUNK*: Old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.

*JUNKYARD*: A yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

*JUNK DEALER*: A person who operates a junkyard, as defined above, within the City.

*ITINERANT JUNK DEALER*: An individual (natural person) who buys, sells, collects, or delivers junk within the City as a business or employment within the City, but who is not an operator of a junkyard within the City or an employee of such an operator.

*BUSINESS PREMISES OR PREMISES*: The area of a junkyard as described in a junk dealer's license or application for license, as provided for in this Chapter. (Ord. No. 80-10 §1; CC §51.010)

SECTION 615.020: LICENSE REQUIRED

It shall be unlawful for any person to act as a junk dealer or itinerant junk dealer in the City, whether personally, by agents or employees, singly, or along with some other business or enterprise, without first having obtained a license therefore from the City Clerk in accordance with the provisions of this Chapter. (Ord. No. 80-10 §1; CC §51.020)

SECTION 615.030: APPLICATION

An applicant for license under this Chapter shall file with the City Clerk a written application upon forms provided by the City Clerk, and pay a fee as hereinafter prescribed.

Said application shall include the junk dealer or itinerant junk dealer's name, residence address, and telephone number of applicant; the exact address or location of the place where the business is or is proposed to be carried on; and such other information as the City Clerk may reasonably require. (Ord. No. 80-10 §1; CC §51.030)

SECTION 615.040: LICENSE FEES

The fees for licenses required under this Chapter shall be as established from time to time by ordinance of the Board of Aldermen and on file in the office of the City Clerk. (Ord. No. 80-10 §1; CC §51.040)

SECTION 615.050: INVESTIGATION; APPROVAL AND ISSUANCE OF LICENSES

Upon receipt of an application for a junk dealer's license as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. If the findings of said investigation are favorable to the applicant, the City Clerk shall within thirty (30) days after the filing of the application and payment of the fee, issue a junk dealer's license to the applicant. (Ord. No. 80-10 §1; CC §51.050)

SECTION 615.060: LICENSE NOT TRANSFERRABLE

No license issued under this Chapter shall be transferred or assigned or used in any way by any person other than the one to whom it was issued. (Ord. No. 80-10 §1; CC §51.060)

SECTION 615.070: DURATION; PRORATION AND REFUND OF FEES

All licenses issued under the provisions of this Chapter shall expire on the thirty-first (31st) day of December following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued. (Ord. No. 80-10 §1; CC §51.070)

SECTION 615.080: GENERAL OPERATING REQUIREMENTS

The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:

* 1. The license issued pursuant to this Chapter shall be plainly displayed on the business premises.
  2. The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition.
  3. No space not covered by the license shall be used in the licensed business.
  4. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
  5. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four inches (4").
  6. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as described herein and is in use in the licensed business.
  7. No junk shall be allowed to rest upon or protrude over any public property, street, alley, walkway, or curb or become scattered or blown off the business premises.
  8. Junk shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes.
  9. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
  10. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
  11. No junk or other material shall be burned on the premises in any incinerator not meeting the approval of the Chief of the Fire Department which approval shall not be unreasonably denied.
  12. No noisy processing of junk or other noisy activity shall be carried on in connection with the license business on Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 P.M. and 7:00 A.M.
  13. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid vertical wall or fence of a minimum height of eight (8) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. (Ord. No. 80-10 §1; CC §51.080)

SECTION 615.090: JUNKYARDS OUTSIDE CITY LIMITS

Section 615.080 shall not apply to the operation of junkyards outside of the City limits, even though the owner thereof be licensed in accordance with this Chapter. (Ord. No. 80-10 §1; CC §51.090)

CHAPTER 620: PERMIT FOR CHARITABLE ROADBLOCKS

SECTION 620.010: REGULATION OF ROAD BLOCKS

It shall be unlawful for any person or associations, including non-profit charitable groups, to conduct a road block within the City limits of the City of Marble Hill, Missouri, for the purpose of soliciting funds. (Ord. No. 87-7 §1 Repealed by Ord. 01-12, September 10, 2001)

SECTION 620.020: PERMIT REQUIRED

Any non-profit charitable group desiring to hold a road block within the City of Marble Hill, Missouri, for purposes of soliciting funds or for any other non-profit purposes shall at least forty-eight (48) hours prior to the holding of said road block, obtain a permit from the City Clerk of the City of Marble Hill allowing said organization to hold said road block. (Ord. No. 87-7 §2)

SECTION 620.030: HOURS FOR SOLICITATION

Any road blocks which shall be permitted under the provisions of Section 620.020 of this Chapter shall be allowed only on Saturday, from 9:00 A.M. to 12:00 noon, and shall be allowed only at the Four-Way Stop intersection on Highway 34 and Highway 51, at the location of said intersection in the City limits of the former town of Lutesville at which is also commonly known as the intersection of Main Street and First Street. In addition, if said road blocks shall involve solicitation by any persons under the age of thirteen (13), at least (1) one supervising adult over the age of eighteen (18) will be required for each four (4) persons participating in said road block supervision. (Ord. No. 87-7 §2)

SECTION 620.040: PENALTY

Any violation of this Chapter shall result in a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) to the person or organization so violating the terms of this Chapter. (Ord. No. 87-7 §2; Repealed by Ord. 01-12, September 10, 2001)

CHAPTER 625: CABLE TELEVISION

ARTICLE I. TITLE AND PURPOSES OF THE CHAPTER

SECTION 625.010: TITLE

This Chapter shall be known as the Marble Hill Cable Television Franchise Ordinance. (Ord. No. 89-33 Article I)

SECTION 625.020: PURPOSES

The purposes of this Chapter are to:

* 1. Provide for the franchising and regulation of cable television systems within the City;
  2. Provide for the payment of a franchise fee and other valuable consideration to the City for the use of City streets and other public ways in the construction and operation of cable television systems and to compensate the City for costs associated therewith;
  3. Provide for the regulation by the City of the operation and maintenance of any system providing cable television service.
  4. Grant a cable television franchise to the Grantee named herein. (Ord. No. 89-33 Article I)

ARTICLE II. DEFINITIONS

SECTION 625.030: DEFINITIONS

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

*AUXILIARY SERVICES*: Any communications services in addition to regular subscriber services including, but not limited to: services for which a per-program or per-channel charge is made; pay TV; data or other electronic transmission services; facsimile reproduction services; meter reading services and home shopping services; interactive two-way services and any other service utilizing any facility or equipment of a cable television system operating pursuant to a franchise granted under this Chapter.

*BASIC SUBSCRIBER SERVICE*: The distribution to subscribers of signals over the cable television system on all channels except those for which a per-program or per-channel charge is made, two-way services and those intended for reception by equipment other than a television broadcast receiver.

*CABLE TELEVISION SYSTEM (OR CABLE TV SYSTEM)*: Any non-broadcast facility consisting of a set of transmission paths and associated signal generation, reception and control equipment that is designed to distribute to subscribers audio, video and other forms of electronic or electrical signals.

*CHANNEL (VIDEO CHANNEL)*: Is a band of frequencies, six megahertz wide in the electromagnetic spectrum, capable of carrying one (1) audio-visual television signal.

*CITY*: The City of Marble Hill, a municipal corporation of the State of Missouri in its present incorporated form or in any later reorganized, consolidate, enlarged or reincorporated form. The City may perform any act pursuant to this Chapter by means of any lawful delegation of power or authority to a City official, Board, committee or other properly authorized body.

*CITY ALDERMEN*: The City Aldermen of the City of Marble Hill.

*CONVERTER*: An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all signals delivered at designated channel selector locations.

*FRANCHISE*: The non-exclusive rights granted hereunder to construct and operate a cable television system along the public ways in the City, or within specified areas in the City.

*FRANCHISE AREA*: That portion of the City for which a franchise is granted under the authority of this Chapter. If not otherwise stated in the franchise, the Franchise Area shall be the corporate limits of the City including all territory thereafter annexed to the City.

*GRANTEE*: The person, partnership, domestic or foreign corporation, association, joint venture, or organization of any kind granted a franchise by the City Aldermen under this Chapter or its lawful and approved successor, transferee or assignee.

*GROSS REVENUES*: All revenue derived from the operation of a cable television system franchised pursuant to this Chapter by the Grantee. Provided however, that this shall not include any taxes on services furnished by the Grantee which are imposed upon any subscriber or user by the State, local or other governmental unit and collected by the Grantee on behalf of said governmental unit.

*PUBLIC WAY OR RIGHTS-OF-WAY*: The surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, or other public right-of-way including public utility easements or rights-of-way and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City which shall entitle the City and the Grantee to the use thereof for the purpose of installing and maintaining the Grantee's cable television system.

*SCHOOLS*: All public or private tax-exempt educational institutions, including elementary and secondary schools, junior colleges, colleges and universities.

*SUBSCRIBER*: Any person who receives the regular subscriber service and/or any one or more of such other services as may be provided by the Grantee's cable television system. (Ord. No. 89-33 Article II)

ARTICLE III. GRANT OF AUTHORITY

SECTION 625.040: REQUIREMENT OF A FRANCHISE

1. The City may grant one (1) or more franchises to construct, install, maintain or operate a cable television system within the City to a person, firm, company, corporation or association which the City deems qualified to operate such system pursuant to the terms and conditions of this Chapter. A cable television system may not be operated in the City unless a franchise has first been obtained pursuant to the provisions of this Chapter and unless such franchise is in full force and effect. No provision of this Chapter shall be deemed or construed to require the City to grant additional franchises if, after considering any application for such additional franchise(s), it is determined by the City that it is in the public interest to restrict the number of Grantees.
2. A franchise granted to provide service within the City shall authorize and permit the Grantee to solicit, sell, distribute and make a charge to subscribers within the City for connection to the cable television system of Grantee, and shall also authorize and permit the Grantee to traverse any portion of the City in order to provide service outside the City.
3. A franchise, easement, license or other permit granted to anyone other than the Grantee to traverse any portion of the City in order to provide service outside the City shall not authorize nor permit said person to solicit, sell, distribute or make any charge to subscribers within the City, nor to render any service or connect any subscriber within the City to the cable television system of Grantee. (Ord. No. 89-33 Article III, §A)

SECTION 625.050: FRANCHISE APPLICATIONS

1. The City may specify the form of an application for a cable television franchise and the information required to be provided therein. After receiving an application for a franchise, the City shall consider the legal, financial, technical and character qualifications of the applicant.
2. An application for a new cable television franchise or a renewal of an existing franchise shall be submitted to the City in a form specified by or acceptable to the City, and in accordance with procedures and schedules established by the City. (Ord. No. 89-33 Article III, §B)

SECTION 625.060: COMPETING OR OVERLAPPING FRANCHISES

1. Any franchise granted by the City is non-exclusive in nature. However, since competing or overlapping franchises may have an adverse impact on the public rights-of-way and on the overall quality, cost and availability of a communications services to the public, the City may issue additional competing or overlapping franchises only after a public hearing(s) at which the following factors are considered:
   1. The ability of the applicant to provide service to the entire franchise area which is served by the existing cable operator.
   2. The amount of time it will take the applicant to complete construction of the proposed system and activate service in the entire franchise area.
   3. The financial capabilities of the applicant and its assured commitment to make the necessary investment to erect, maintain and operate the proposed CATV system for the duration of the franchise.
   4. The quality and technical reliability of the proposed system, based upon the applicant's plan of construction and the method of distribution of signals, and the applicant's technical qualifications to construct and operate such system.
   5. The experience of the applicant in the erection, maintenance and operation of a cable television system.
   6. The capacity of the public rights-of-way to accommodate one (1) or more additional cable systems and the potential disruption of those public rights-of-ways that may occur if one (1) or more additional franchises is granted.
   7. The potential disruption of existing cable television service and the potential for destructive competition which would adversely impact the residents of the City, based upon the number of potential subscribers in the proposed service area.
   8. The likelihood and ability of an applicant to continue to provide competing cable television service to subscribers within the entire franchise area for the duration of the franchise.
   9. Such other information that should be considered by the City prior to granting competing or overlapping franchises. (Ord. No. 89-33 Article III, §C)

ARTICLE IV. FRANCHISE CONDITIONS

SECTION 625.070: FRANCHISE TERM AND RENEWAL

The term of this franchise shall be fifteen (15) years. The Grantee shall be reviewed every five (5) years to assure franchise compliance. The Grantee shall have the option to renew this franchise, for additional five (5) year periods. (Ord. No. 89-33 Article IV, §A)

SECTION 625.080: NOTICE TO THE GRANTEE

Except as otherwise provided in this Chapter, the City Aldermen shall not meet to take any final action involving the Grantee's franchise unless the City has;

* 1. Advised the Grantee in writing, at least thirty (30) days prior to such meeting, as to its time, place and purpose.
  2. Published a notice at least once, seven (7) days before the meeting in a newspaper of general circulation within the City. The notice provided for in this Section shall be in addition to, and not in lieu of, the notice to Grantee and opportunity to cure any default provided in this Chapter. (Ord. No. 89-33 Article IV, §B)

SECTION 625.090: FRANCHISE REVIEW AND MODIFICATION

It shall be the policy of the City to amend a franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of advancements in the state-of-the-art which will afford it an opportunity to more effectively, efficiently, or economically serve its subscribers. (Ord. No. 89-33 Article IV, §C)

SECTION 625.100: FRANCHISE FEE

1. The Grantee, in consideration of the privilege granted under the franchise for the operation of a cable television system within the public ways of the City and the expense of regulation of the franchise incurred by the City, shall pay to the City a franchise fee. As of January 1, 1990, that fee shall be set at five percent (5%) of gross basic cable revenue less installation and pay TV fees during the period of its operation under the franchise. The City shall not require a franchise fee greater than five percent (5%) of gross revenues if such fee would detrimentally impact the economic viability of Grantee's cable communications system. Provided further, Grantee shall be entitled to adjust its rates to recover from subscribers and users any increase in the franchise fee adopted by the City pursuant to this Section.
2. Grantee shall pay its franchise fee on an annual basis. The Grantee shall file with the City, within one hundred twenty (120) days following the conclusion of the calendar year, an annual report showing its total gross revenues for the calendar year and the amount of franchise fees due to the City.
3. The City shall have the right to inspect the Grantee's income records, the right to audit and the recompilation of any amounts determined to be payable under this Chapter. Any additional amount due the City as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the City which notice shall include a copy of the audit report. The cost of said audit shall be borne by the Grantee only if it is properly determined that the Grantee's annual payment due to the City for the preceding year was at least twenty percent (20%) less than it properly should have been. Otherwise the City shall bear the cost of any such audit.
4. In the event that any franchise payment or recomputed amount is not paid on or before the applicable dates heretofore specified, interest shall be charged from such due date at the non-compounded interest rate of one percent (1%) per month.
5. In the event the franchise is terminated prior to its expiration date the Grantee shall file with the City, within sixty (60) days of the date that ownership and control passes to an assignee, a financial statement shall pay the franchise fee due at the time such statement is filed or within thirty (30) days thereafter. (Ord. No. 89-33 Article IV, §D)

SECTION 625.110: INSURANCE AND BONDS

1. Upon the granting of a franchise and within sixty (60) days following the filing of the acceptance required and at all times during the term of the franchise the Grantee shall obtain, pay all premiums for and file with the City executed duplicate copies of the following:
   1. A general comprehensive liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents or employees from any and all claims by any person whatsoever on account of injury to a death of a person or persons occasioned by the operations of the Grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of five hundred thousand dollars ($500,000.00) per personal injury or death of any one (1) person and one million dollars ($1,000,000.00) for personal injury or death of any two (2) or more persons in any one (1) occurrence.
   2. Property damage insurance indemnifying, defending, and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of Grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of five hundred thousand dollars ($500,000.00) for property damage to the property of any one (1) person and one million dollars ($1,000,000.00) for property damage to the property of two (2) or more persons in any one (1) occurrence.
2. All insurance policies called for herein shall be in a form satisfactory to the City Attorney and shall require thirty (30) days written notice of any cancellation to both the City and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement policies within thirty (30) days following receipt by the City or the Grantee of any notice of cancellation. (Ord. No. 89-33 Article IV, §E)

SECTION 625.120: INDEMNITY

The Grantee shall, at its sole cost and expense, indemnify and hold harmless the City, its officials, boards, commissions, consultants, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of the award of a franchise to the Grantee and its operation of the cable television system under the franchise. These damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Grantee's cable television system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. (Ord. No. 89-33 Article IV, §F)

SECTION 625.130: TRANSFER OF FRANCHISE

1. A franchise granted under this Chapter may be assigned or transferred, in whole or in part, by voluntary sale, sale and leaseback, merger, consolidation or otherwise or by forced or involuntary sale, with the prior consent of the City Aldermen expressed by resolution
2. The City Aldermen shall not withhold its consent to any transfer of a franchise unreasonably; provided that the proposed assignee agrees to comply with the material provisions of this Chapter and the franchise shall provide proof of its legal, technical, financial, and character qualifications to operate the cable system.
3. No such consent shall be required for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure indebtedness. (Ord. No. 89-33 Article IV, §G)

SECTION 625.140: SUBSCRIBER FEES AND RECORDS

1. The Grantee shall not, with regard to fees, discriminate or grant any preference or advantage to any person. However, the Grantee may establish different rates for different classes of subscribers, provided that the Grantee does not discriminate between subscribers of the same class.
2. Grantee may, at its own discretion, in a non-discriminatory manner, waive, reduce or suspend connection fees and/or monthly service fees for promotional purposes.
3. This Section shall not prevent a Grantee from refusing service to any person because the Grantee's prior accounts with that person remain due and owing.
4. A Grantee may offer service which requires advance payment of periodic service charges. A customer shall have the right, at any time, to have its service disconnected without charge and with a refund of pre-paid service charges within sixty (60) days from the date service is disconnected. (Ord. No. 89-33 Article IV, §H)

SECTION 625.150: EXTENSION OF SERVICE

1. Grantee shall extend its cable television system and make service available as follows:
   1. Within one (1) year after the grant of a franchise service shall be provided to all streets or parts of streets reaching a minimum density of thirty (30) dwelling units per street mile, beginning at the boundary of any trunk line.
   2. Concurrently with the City of laying lines to developing areas having a planned minimum density of thirty (30) dwelling units per street mile, beginning at the boundary of the existing service area.
2. Grantee must extend and make cable television service available to any resident within the franchise area who requests connection, at the standard connection charge, if the connection to the resident would require no more than a standard one hundred and fifty (150) foot aerial or buried drop line.
3. With respect to requests for connection requiring an aerial or buried drop line in excess of one hundred and fifty (150) feet, Grantee shall extend and make available cable television service to such residents at a connection charge not to exceed the actual costs incurred by the Grantee for the distance exceeding one hundred and fifty (150) feet.
4. The Grantee shall provide aerial or buried drop lines to new subdivisions within the franchise area at the request of the developer provided the developer contracts and agrees with the Grantee to pay the cost of the extension of the service. (Ord. No. 89-33 Article IV, §I)

SECTION 625.160: FREE BASIC SERVICE TO PUBLIC SCHOOLS

Grantee shall provide, without charge, one (1) service outlet activated for basic subscriber service to each school in the City. However, if it is necessary to extend Grantee's trunk or feeder lines more than two hundred (200) feet solely to provide service to any such school, the City shall have the option of either paying Grantee's direct costs for such extension in excess of two hundred (200) feet, or of releasing Grantee from the obligation to provide service to such building. Furthermore, Grantee shall be permitted to recover from any public building owner entitled to free service, the direct cost of installing, when requested to do so, more than one (1) outlet, or concealed inside wiring, or a service outlet requiring more than two hundred (200) feet of drop cable. (Ord. No. 89-33 Article IV, §J)

SECTION 625.170: OPERATIONAL REQUIREMENTS AND RECORDS

1. The cable television system to be installed by Grantee shall comply in all respects with the technical performance requirements set forth in the FCC's Rules for Cable Television including applicable amendments thereto.
2. Grantee shall construct, operate, and maintain the cable television system in full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable Federal, State, or local laws.
3. Grantee shall maintain a regional office which shall be open and accessible to the public with adequate telephone service during normal business hours. Grantee shall employ an operator or maintain a telephone answering service twenty-four (24) hours per day, each day of the year, to receive subscriber complaints.
4. Grantee shall exercise its best effort to design, construct, operate, and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality (within the limitations imposed by the technical state-of-the-art).
5. In the case of any emergency or disaster, the Grantee shall, upon request of the City, make available its facilities to the City, for emergency use during the emergency or disaster period. (Ord. No. 89-33 Article IV, §K)

SECTION 625.180: RATES TO CUSTOMERS

1. The City acknowledges that the Cable Communications Policy Act of 1984 and the regulations of the FCC adopted pursuant thereto limit the City's ability to regulate rates to specified circumstances which do not apply in Marble Hill. The Grantee will give the City thirty (30) days advance written notice of any change in rates and charges whenever possible. However, under Federal law the Grantee is entitled to set its rates and charges as it sees fit without obtaining the prior consent of the City.
2. All rates will be published, including rates for installation and monthly charges for providing basic, pay television and converter deposits. Except where necessary to meet competition, rates will be nondiscriminatory and uniform to persons and organizations of like classes, under similar circumstances and conditions.
3. The Grantee shall provide refunds to subscribers in the following cases:
   1. If the Grantee fails within a reasonable time to commence service requested by a subscriber, it will refund all deposits or advance charges that the subscriber has paid in connection with the request for such service.
   2. If a subscriber terminates any service at any time and has a credit balance, the Grantee will, upon notice from the subscriber and upon return of all of Grantee's equipment, refund the appropriate credit balance to the subscriber. The subscriber will be responsible for furnishing the Grantee a proper address to which to mail the refund.
   3. If any subscriber's services is out of order for more than seventy-two (72) consecutive hours during the month due to technical failure, damage, or circumstances within the control of the Grantee, the Grantee will credit the account of that subscriber on a pro rata basis upon the subscriber's written request. The credit will be calculated using the number of twenty-four (24) hour periods that service is impaired and the number of channels on which service is impaired as a fraction of the total number of days in the month that the service impairment occurs and the total number of channels provided by the system in the absence of impairment. (Ord. No. 89-33 Article IV, IL)

SECTION 625.190: SERVICE REPAIR AND COMPLAINT PROCEDURES

1. Except for circumstances beyond the Grantee's control such as acts of God, weather, wars, riots and civil disturbances, the Grantee shall be capable of locating and correcting system malfunctions promptly.
2. A listed local telephone number or toll free eight hundred (800) number shall be made available to subscribers for service calls. Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received. Corrective action shall be completed as promptly as practicable.
3. A service technician shall be available to respond to service calls from subscribers Monday through Friday during normal working hours. Calls requesting repair service shall be responded to the same day they are received whenever possible. If a service call is received after 3 P.M. on Friday, every attempt shall be made to respond within seventy-two (72) hours.
4. In establishing response time, the Grantee may differentiate between service problems unique to a single household an problems caused by a service outage which affects a large number of subscribers area outage.
5. An area outage is defined as an outage of all cable channels in three (3) or more residences in the same neighborhood or area which is caused by a problem with the cable system, rather than being caused by the subscriber. All area outages shall be responded to as soon as possible after notification on a twenty-four (24) hour a day, seven (7) day a week basis. Designated technicians shall be on call twenty-four (24) hours a day to respond when notified by phone or paged by Grantee or an answering service employee. Technicians are expected to repair the problem found and have the system operational as soon as possible. (Ord. No. 89-33 Article IV, §M)

SECTION 625.200: STREET OCCUPANCY

1. Grantee shall utilize existing poles, conduits and other facilities whenever possible, but may construct or install new, different, or additional poles, conduits, or other facilities whether on the public way or on privately-owned property with the written approval of the appropriate governmental authority, and, if necessary, of the property owner. Such approval shall not be unreasonably withheld by the governmental agency.
2. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any public way and at all times shall be kept and maintained in a safe condition and in good order and repair. The Grantee shall at all times employ reasonable care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.
3. Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the direction of the City or other appropriate governmental authority. (Ord. No 89-33 Article IV, §N)

SECTION 625.210: CONSUMER PROTECTION

1. The Grantee shall not, without good cause, fail to make available cable service to prospective subscribers nor shall the Grantee terminate service without good cause. Service shall be provided to all interested customers where economically feasible and consistent with the line extension provisions contained in this Chapter.
2. Unless a written contract exists between the Grantee and a subscriber, service shall be on a month-to month basis and the Grantee shall not assess a penalty for cancellation of the service.
3. The Grantee is expressly prohibited from requiring, offering, or providing any inducements for any subscriber to remove an existing antenna as a condition to providing service. (Ord. No. 89-33 Article IV, §0)

SECTION 625.220: PROTECTION OF PRIVACY

1. The Grantee and the City will constantly guard against possible abuses of the right of privacy or other rights of any subscriber or person. In particular, the Grantee shall comply with the privacy provisions of the Cable Communications Policy Act of 1984, 47 U.S.C. Section 551, incorporated herein by reference.
2. Grantee shall not permit the transmission of any signal, aural, visual or digital, including polling the channel selection, from any subscriber's premises without first obtaining the informed consent of the subscriber, which shall not have been obtained from the subscriber as a condition of any service for which transmission is not an essential element. The request for such consent shall be contained in a separate document which enumerates and describes the transmissions being authorized and includes a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision, and shall be revocable at any time by the subscriber without penalty of any kind whatsoever. This provision is not intended to prohibit the use or transmission of signals useful only for the control or measurement of system performance or used only for billing subscribers or providing optional pay services.
3. Grantee shall not permit the use of any special terminal equipment in any subscriber's premises that shall permit transmission from the subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber as provided in Subsection A of this Section.
4. Grantee, or any of its agents or employees, shall not, without the specific written authorization of the subscriber involved, sell or otherwise make available to any party any list which identifies the viewing habits or responses of individual subscribers. (Ord. No. 89-33 Article IV, §P)

ARTICLE V. GENERAL PROVISIONS

SECTION 625.230: COMPLIANCE WITH STATE AND FEDERAL LAW

The Grantee shall, at all times, comply with all laws of the State and Federal Government and the rules and regulations of any Federal or State administrative agency. (Ord. No. 89-33 Article V, §A)

SECTION 625.240: SPECIAL LICENSE

The City reserves the right to issue a license, easement or other permit to anyone other than the Grantee to permit that person to traverse any portion of the Grantee's franchise area within the City in order to provide service outside the City. Such license or easement, absent a grant of a franchise in accordance with this Chapter, shall not authorize nor permit said person to provide cable television service to any nature to any home or place of business within the City, nor to render any service or connect any subscriber within the City to the Grantee's cable television system. (Ord. No. 89-33 Article V, §C)

SECTION 625.250: ACCEPTANCE OF FRANCHISE

This franchise Chapter and its terms and conditions shall be accepted by the Grantee by written instrument filed with the City within ninety (90) days after the granting of the franchise, unless said period is extended by the City Aldermen. (Ord. No. 89-33 Article V, §D)

SECTION 625.260: NONDISCRIMINATION IN EMPLOYMENT

The Grantee shall neither refuse to hire nor discharge from employment nor discriminate against any person in compensation, terms, conditions, or privileges of employment because of age, sex, race, color, creed, or national origin. The Grantee shall take affirmative action to insure that employees are treated without regard to their age, sex, race, color, creed or national origin. This condition includes, but is not limited to, the following: recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, lay-off, and termination. (Ord. No. 89-33 Article V, §E)

SECTION 625.270: GRANTEE MAY ISSUE RULES

Grantee shall have the authority to issue such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its services under this Chapter and the Rules of the FCC, and to assure uninterrupted service to each and all of its subscribers. Such rules and regulations shall not be deemed to have the force of law. (Ord. No. 89-33 Article V, §F)

SECTION 625.280: DELEGATION OF POWERS

Any delegable right, power or duty of the City, the City Aldermen or any official of the City under this Chapter may be transferred or delegated by resolution of the City Aldermen to an appropriate officer, employee, or department of the City, or any other legal authority. (Ord. No. 89-33 Article V, §G)