

Chapter 27

TAXATION*

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***Charter reference(s)**--General authority to tax, § 14.1.

Cross reference(s)--Finance department, § 2-231 et seq.; finance, § 2-1051 et seq.; public improvements and special assessments, § 2-1151 et seq.; businesses, ch. 8.

State law reference(s)--Powers of home rule charter cities, Mo. Const. art. VI, § 19(a); municipal taxation generally, RSMo 71.610 et seq.

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ARTICLE I. IN GENERAL**Secs. 27-1--27-30. Reserved.****ARTICLE II. PROPERTY TAXATION*****DIVISION 1. GENERALLY******Sec. 27-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Real property* includes land itself, whether laid out in town lots or otherwise, and all growing crops, buildings, structures, improvements and fixtures of whatever kind thereon, and all rights and privileges belonging or appertaining thereto.
- (2) *Tangible personal property* includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming part or parcel of real property as herein defined, but does not include household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place.

(Code 1969, § 8-27)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 27-32. Annual assessment date.

Real estate and tangible personal property shall be assessed annually at the assessment which commences on January 1.

(Code 1969, § 8-28)

Sec. 27-33. Classification of property for tax purposes.

All property in the city shall be classified for tax purposes as follows:

***Charter reference(s)**--Adoption of ad valorem tax, § 6.11.

****State law reference(s)**--Assessment and levy of property taxes, RSMo ch. 137.

(1) Class 1, real property.

(2) Class 2, tangible personal property.
(Code 1969, § 8-26)

Sec. 27-34. Owner of property on January 1 liable for taxes.

Every person owning or holding real property or tangible personal property subject to taxation for municipal purposes on January 1 of any calendar year, including all such property purchased on that day, shall be liable for taxes thereon for the fiscal year beginning with May 1 thereafter.

(Code 1969, § 8-29)

Sec. 27-35. Abatement of tax by director of finance.

(a) *Grounds.* The director of finance may, at any time prior to the sale of any lot or tract of land for delinquent taxes, or suit brought for tangible personal property taxes, abate any particular tax because the tax has been paid, or for mistake in entering it against the wrong lot or tract, or in case of any personal tax against the wrong person, and correct any mistake in computing or extending any tax so entered.

(b) *Records required.* He shall in each case make a permanent record of his action in making such abatements and corrections and shall at once note such action on the proper records of the city, in such a way as to show clearly what has been done, and when, but without erasing or altering the prior entries of taxes on the book or record.

(Code 1969, § 8-30)

Sec. 27-36. Exemption, release, remission, abatement, reduction prohibited; exceptions.

No person or property shall be exempted or released from any burden imposed by or according to law. No general or special tax assessment, or interest or penalty thereon or any fee or charge imposed pursuant to city ordinance or interest or penalty thereon, shall be remitted or abated, or the right to enforce payment thereon be released, unless expressly authorized by a special ordinance of the city council or in correction of errors or mistakes occurring after the levy of any tax; neither the amount of the tax nor the valuation of any property for the levy shall be

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reduced, except in the correction of clerical errors or mistakes occurring after the levy of any tax.
(Code 1969, § 8-31; G.O. 1523, 6-2-97)

Cross reference(s)--Method of remitting or abating taxes, fees or charges, § 2-1054.

Sec. 27-37. Tax books and records, certified copies as evidence.

The tax books and all other books and papers made or kept by the director of finance or other officer of the city, in any manner relating to any tax, shall be received in all courts as evidence of all the facts stated therein, and of the validity of the tax costs, interest and penalty therein appearing and a copy of so much of any of the aforesaid books and papers as relates to the tax in question, certified to by the director of finance or any other officer of the city having the same in charge, shall be received in evidence in like manner and with like effect.
(Code 1969, § 8-32)

Sec. 27-38. Records to be kept by director of finance.

The director of finance shall have charge of and keep in his office all maps, plats, books, papers, records and other property that may be provided by the city to aid in the assessment of property.
(Code 1969, § 8-33)

Sec. 27-39. Looseleaf records of taxes and assessments.

The director of finance is hereby authorized to keep all records pertaining to assessments and taxes on both real estate and tangible personal property on separate sheets or cards, either bound or unbound. Such separate sheets or cards, either bound or unbound, shall be the official and original assessment and tax records of the city and shall constitute the tax books of the city within the meaning of the various sections of this article.
(Code 1969, § 8-34)

Sec. 27-40. Taxing property of corporations, companies, associations.

All real and tangible personal property of all corporations, companies or associations, including incorporated banks and such other corporations as are not exempt by state law, shall

be assessed and taxed as the real and tangible personal property of individuals is assessed and taxed. The treasurer, manager or chief officer of any such corporation, company or association shall, on or before February 1 in each year, make out and deliver to the director of finance a complete, verified list, showing all real and tangible personal property lying in the city owned or held by such corporation, company or association, on January 1 of such year. Should such corporation, company or association or its officers fail to make such returns to the director of finance, they shall be subject to the same penalties as an individual in such cases.
(Code 1969, § 8-35)

Sec. 27-41. Tax upon merchants, manufacturers; time, rate of levy.

The tax to be levied upon merchants and manufacturers shall be levied at the same time and at the same rate as that levied upon real estate for the same fiscal year.
(Code 1969, § 8-36)

Sec. 27-42. Property exempt from taxation.

The following objects are exempt from taxation for city purposes:

- (1) Lands and other property belonging to this state.
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipment and on public squares and lots kept open for health, use or ornament.
- (3) Nonprofit cemeteries.
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state.
- (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not used for private or corporate profit, except that the exemption herein granted does not include real property not

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actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes.

- (6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place.

(Code 1969, § 8-37)

Sec. 27-43. Notice to deliver list of tangible personal property.

The director of finance shall, at least ten days before January 1 in each year, give public notice by advertisement in some daily newspaper published in the city that all persons are required to deliver to him lists of tangible personal property for taxation, as required by this article.

(Code 1969, § 8-38)

Sec. 27-44. Delivery of lists of tangible personal property.

(a) *Duty.* It shall be the duty of all persons, including but not limited to individuals, merchants, manufacturers, service businesses, hotels and apartments, who own or have in their possession or under their control, whether as owner or as agent of another, on January 1 any tangible personal property subject to municipal taxation, to deliver to the director of finance, at his office, on or before March 1 of the same year, a true and complete list thereof classified as required by law, with the true value in money of such property. Any person owning such property at two or more places of business, or at two or more street addresses, shall deliver to the director of finance a separate list of such property, as above provided, for each individual location. The lists required by this section must be affirmed and signed by the person making the return, or his agent.

(b) *Director to keep office open, furnish blanks, forms.* On and after January 1, the director of finance shall attend at his office, and keep the same open himself or by some person authorized to act in his behalf, on Monday through Friday of each week except during authorized legal holidays, to and including March 1 following,

during the usual office hours, for the purpose of receiving the lists of property and statements of merchants and others by this article required to be delivered to him, and shall, at all times, keep on hand and furnish to persons lawfully requiring the same, all necessary blanks and forms of lists and statements required by this article.

(Code 1969, § 8-39)

Sec. 27-45. Examination of person concerning his tangible personal property.

The director of finance and persons authorized to act in his behalf are empowered and authorized to administer any oath or affirmation relating to the assessment of property and may examine under oath any person concerning the tangible personal property for which he is liable to be assessed, and the true value in money thereof.

(Code 1969, § 8-40)

Sec. 27-46. Failure to furnish list of tangible personal property.

Whenever there shall be any taxable personal property in the city and from any cause no list thereof shall be given to the director of finance in proper time and manner, the director of finance shall make out the list on his own view or on the best information he can obtain, and for that purpose he shall have lawful right to enter into any lands and may make any examination and search which may be necessary.

(Code 1969, § 8-41)

Sec. 27-47. Penalty for failure to deliver list of tangible personal property.

If any person, corporation, partnership or association neglects or refuses to deliver an itemized statement or list of all tangible personal property signed and certified by the taxpayer by March 1 as required by Section 27-44 or the latest revision thereof, the director of finance shall assess for the year in question the property which should have been listed, without stating the kind of personal property as provided herein with a penalty as follows:

- (1) Ten percent, filed on the dates of March 2 through March 31.
- (2) Twenty percent, if filed on the dates of April 1 through April 30.

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(3) Thirty percent, if filed on the dates of May 1 through August 31.

(4) Fifty percent, if filed after August 31.
(Code 1969, § 8-42)

Sec. 27-48. Failure to furnish true list of tangible personal property.

(a) *Authority of director.* The director of finance shall have the power to and may, if he believes that any person has failed to turn in a true list and value of his property for assessment purposes, notify such person by letter or otherwise that he intends to make an assessment of his property as if no list and statement had been delivered to him, and may require such person to appear and be sworn and examined as to the amount and value of his property; and he may personally or by a person authorized to act in his behalf, examine into the same and upon determining the amount and value of such property shall certify both lists and statements to the board of appeals, at their next annual session.

(b) *Authority of board of appeals.* The board of appeals may thereupon proceed to summarily determine the fair cash value of such property for assessment purposes without further notice to such person. If it appears that such person has failed to turn in a true list and value of his property for assessment purposes the board of appeals, by way of penalty, may double the assessment thus ascertained.
(Code 1969, § 8-43)

Sec. 27-49. Assessment of real estate.

(a) *Generally.* The director of finance shall enter on the permanent real estate tax record for each parcel of real estate subject to taxation the valuation of the land and of the improvements thereon, with valuation shall constitute the assessment for the then ensuing year. When any property is not platted in lots or blocks, the director of finance shall describe the same on the real estate tax record by any pertinent description, or he may require the owner thereof to furnish such description.

(b) *Unplatted land.* It shall be the duty of all owners of property not platted in lots or blocks to furnish to the director of finance a sufficient description thereof and, in case of a failure of any such owner to furnish such description at least 15

days before the time fixed for the return of the assessment the director of finance may require the city engineer to make and return to him a survey of such property and the expenses of such survey shall be returned by the director of finance, together with his assessment of the property, and shall be added to the tax to be levied upon the property and collected as a part thereof.

(Code 1969, § 8-44)

Sec. 27-50. Assessment of property omitted from previous taxation.

If the director of finance shall discover that any property subject to taxation for any previous year was not assessed, or for any cause has escaped taxation for such year, it shall be the duty of the director of finance, in addition to the assessments for the then ensuing year, to assess such property for the year in which the property was untaxed.

(Code 1969, § 8-45)

Sec. 27-51. Taxation of property of carriers, utilities; valuation.

Upon all property owned by any railroad, telegraph, telephone, bridge, power and light company, pipe line, express company, street railroad or other public utility company within the city subject to taxation for state and county purposes, upon which a city tax has heretofore been levied and collected by the city, the county shall levy and collect taxes in the same manner that taxes are levied and collected upon other property within the county; and the valuation upon which a tax may be levied and collected shall be the last valuation fixed by the state tax commission prior to January 1 of each year.

(Code 1969, § 8-46; G.O. 1213, 8-29-94)

Sec. 27-52. Return of assessments to council by director of finance.

(a) It shall be the duty of the director of finance between January 1 and July 15 of each fiscal year, to make and return to the council an estimate of

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the full and complete assessment of all property, real and personal, in the city, on January 1 of such year, and not exempt from municipal taxation, at the actual cash value of such property. Such estimate of assessments shall be returned in such form as shall be prescribed by the director of finance and shall be certified, verified, and returned as provided in this section.

(b) Nothing contained herein shall preclude the director of finance from contracting with county assessment and other officials for the provision of any and all assessment, equalization, and taxation services required to be provided by the director of finance under other sections of this Code. All such contracts shall be approved by the city council.

(Code 1969, § 8-47)

Sec. 27-53. Certification of assessments by director of finance.

(a) *Real property.* Upon completion of his assessments, the director of finance shall endorse upon the last page of the last volume of the permanent real estate tax records his certificate, verified by affidavit, that he has made diligent efforts to ascertain all taxable real estate situated in the city and that, so far as he has been able to ascertain, the valuations are correctly set forth in such records.

(b) *Tangible personal property.* Upon completion of his assessments, the director of finance shall endorse upon the last page of the last volume of the tangible personal property returns his certificate, verified by affidavit, that he has made diligent effort to ascertain all tangible personal property taxable by the city and that, so far as he has been able to ascertain, the valuations are correctly set forth in such returns, and then return the assessments to the council by delivering the same to the city clerk at his office.

(Code 1969, § 8-48)

Sec. 27-54. Board of appeals--Constituted, sessions.

The mayor, director of finance and the president of the council shall be and constitute the board of appeals to hear complaints of any party aggrieved by the assessment as made by the director of finance; a majority of the members of the board shall constitute a quorum for the transaction of business. The board shall hold its

sessions in each year for not more than 12 nor less than six days, beginning on the fourth Monday in March of each year; the president of the council shall be chairman of the board and shall receive \$10.00 per day for his services on such board.

(Code 1969, § 8-49)

Sec. 27-55. Same--Notice of meeting.

The city clerk shall cause to be published in one issue of the newspaper at the time doing the city printing, and for at least five days before the date fixed by law for the sitting of the board of appeals, a notice to all taxpayers of the city that the board will hold its annual session on the days prescribed by law, and stating the place where such board will hold its session, and that in the meantime the assessment for the ensuing fiscal year will be open to the inspection of the public at the office of the director of finance.

(Code 1969, § 8-50)

Sec. 27-56. Proceedings of board of appeals.

(a) *Duty of city clerk.* The city clerk shall deliver to the board of appeals the assessment books on the first day of the session of the board, and he shall act as clerk of the board.

(b) *Hearing appeal.* Any person aggrieved by an error in the assessment may make his complaint or appeal on account of such error in writing. The board shall hear and determine the same summarily, and may examine the person appealing or any other person on oath touching the matter complained of, and shall have power to compel the attendance of witnesses and production of books and papers, and to this end any police officer of the city shall execute such process as may be issued by the board.

(c) *Action on assessment.* If the board proposes to increase the assessment in any case, or to assess any property not theretofore assessed, it shall cause notice thereof to be served upon the owner (or his agent or representative) of such property, if within the city, who shall have the right to be heard upon such proposed increase or proposed assessment. If the board shall find any error in the assessment, it shall order the same to be changed and corrected, and for the purpose of making the same fair and just, may increase or diminish the valuation of any property to its fair cash value. If it shall find that any property has

not been assessed by the director of finance, the board shall fix the assessment thereof.

(d) *Duty of director of finance.* The director of finance shall make such corrections and such additional assessments as may be ordered by the board; such corrections shall not be made by erasure or interlineation, but shall be placed in a column opposite the original valuation, and the change in valuation of each class placed over same in red ink.

(Code 1969, § 8-51)

Sec. 27-57. Time and manner of making tax levy.

After the budget is adopted and immediately upon receipt of the assessed valuation amounts from the county, the director of finance shall compute the tax levy, and the council shall, by ordinance, set the tax rates and levy on the various classes of property, and the levy so established shall be certified by the city clerk to the appropriate official, who shall compute the taxes and extend them upon the tax rolls.

(Code 1969, § 8-52; G.O. 1676, 1-11-99)

Sec. 27-58. Extension of taxes by director of finance.

(a) *Method.* On the day next after the passage of an ordinance levying the taxes for any fiscal year, the city clerk shall deliver to the director of finance a certified copy of such ordinance levying the taxes for that year. The director of finance shall forthwith proceed to extend the taxes for the year on the real estate tax records in appropriate columns thereon for that purpose, and shall extend upon such real estate tax record against any parcel returned by the director of finance as untaxed for any year the amount of tax for such year for which the same was untaxed, according to the rate of taxation as prescribed by ordinance for such year; and the director of finance shall compute from the assessment returns of tangible personal property the tangible personal property taxes for the year.

(b) *Certification.* The director of finance shall, when the taxes are all extended, file with the city clerk his certificate, verified by affidavit, that he has truly and correctly extended and entered the taxes according to the assessment of the property and the ordinances levying the taxes for that year. (Code 1969, § 8-53)

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Sec. 27-59. Delivery of tax bills when taxes are extended.

The director of finance, or representative thereof, shall, at the time of extending the taxes for the year, prepare tax bills according to the extension of taxes for the year upon the tax records and mail such tax bills to the owners of property assessed, so far as such owners are known, or to persons requesting such tax bills, as a convenience to the taxpayer. The validity of any tax, or the time at which the tax shall be payable, shall not be affected by the failure of the director of finance to mail or otherwise deliver a tax bill.

(Code 1969, § 8-54; G.O. 1676, 1-11-99)

Sec. 27-60. Collection of special assessments.

(a) All annual special assessments provided for in the Charter, unless otherwise provided by ordinance, shall be collected and enforced by the director of financial services or his or her designee.

(b) All special assessments in the amount of \$10,000 or more shall be filed in the Buchanan County Recorder of Deeds. Special assessments less than \$10,000 shall be recorded in the tax books in the financial services department. (Code 1969, § 8-55; G.O. 1965, 9-2-03)

Sec. 27-61. Assessment, tax not void for informality or delay.

No assessment of property or charges for taxes thereon shall be considered illegal on account of any informality in making the assessment, equalization, levy or extension, or in the tax lists, or on account of the same not being completed within the time required by law.

(Code 1969, § 8-56)

Sec. 27-62. Taxes due without demand; due date; penalties for delinquency.

(a) No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation to attend at the office of the director of finance, or representative thereof, at some time on or before December 31 of the tax year, and to pay the taxes due.

(b) If anyone neglects to pay the tax before December 31 following the levy of the tax, the same shall be delinquent and bear interest

thereafter at the rate charged by Buchanan County, which is two percent per month not to exceed 18% per annum.

(Code 1969, § 8-57; G.O. 1676, 1-11-99)

Sec. 27-63. Receipt for tax or assessment paid.

When any person shall pay any tax or special assessment, it shall be the duty of the director of finance, or designated representative, to sign and deliver a receipt therefor, specifying the name of the person for whom paid, the date and amount paid on each tract or parcel of real property, the amount paid on personal property, all interest, penalties and costs, if any, and the years paid for.

(Code 1969, § 8-58; G.O. 1676, 1-11-99)

Sec. 27-64. Payment of taxes, assessment on part of real estate, undivided therein.

The director of finance shall receive payments of special assessments on parts of any lot, piece or parcel of real property charged with special assessments, provided the person paying such special assessment shall furnish a particular specification of the part, and if the special assessment on the remainder of such lot or parcel of real property shall remain unpaid, it shall be the duty of the director of finance to enter such specification in the land tax records, to the end that the part on which the special assessment remains unpaid may be clearly shown. If payment is made on an undivided share or interest of real property, the director of finance shall enter in the land tax records the name of the owner of such share, in order to designate upon whose and what interest the special assessment has been paid.

(Code 1969, § 8-59; G.O. 1676, 1-11-99)

Sec. 27-65. Payment of part of taxes, special assessments on real estate.

Any person may pay the special assessments of any year or years on any lot or parcel of real property, leaving unpaid any other special assessments on such real property appearing by the land tax records to be a charge on same; provided however, that the director of finance in such event shall not be bound to accept or receipt for any part of any special assessment of any year.

(Code 1969, § 8-60; G.O. 1676, 1-11-99)

Sec. 27-66. Duty of director of finance as tax collector.

The director of finance shall diligently endeavor, and use all lawful means, to correct all taxes appearing upon the tax records of the city.

(Code 1969, § 8-61)

Sec. 27-67. Authority of director of finance to require assistance.

If the director of finance is resisted or impeded in the discharge of his duties, as provided herein, he may require any suitable person to assist him therein; and if such person refuses to render the aid, such person shall forfeit a sum not exceeding \$10.00 to be recovered in a civil action in the name of the city, before the judge of the municipal court; and the person resisting shall be liable in the same manner and to the same extent as in the case of resisting the sheriff in the execution of civil process.

(Code 1969, § 8-62)

Sec. 27-68. Collection of delinquent taxes on personal property.

It shall be the duty of the director of finance to collect delinquent taxes on personal property including merchants and manufacturers upon which taxes are levied and remaining due and unpaid, and he shall continue to receive taxes after they become delinquent until collected. The director of finance shall turn over to the city attorney from time to time such delinquent personal property taxes remaining due and unpaid as necessary, in his discretion, that further action be taken by the city attorney to collect same.

(Code 1969, § 8-63)

Sec. 27-69. Publication of delinquent personal property taxes.

(a) *Required.* The director of finance shall cause to be published in one issue of some daily newspaper published in the city, at least one week before delinquent taxes on personal property are turned over to the city attorney for collection, such delinquent personal property taxes including delinquent merchants' and manufacturers' taxes, remaining due and unpaid as he shall deem necessary in his discretion that further action be taken to collect same by the city attorney.

(b) *Contents.* It shall be sufficient that the publication contain a description substantially the

same as in the personal tax records of the original levy, stating the name and address of each person delinquent in the payment of his personal taxes, and stating the aggregate amount of taxes including interest, penalty and cost, due and unpaid and the year delinquent, together with a notice that, unless such delinquent personal property taxes are paid within one week from the date of the publication, that the delinquent personal property taxes remaining due and unpaid thereafter shall be subject to being turned over to the city attorney for collection, whose duty it shall be to proceed to collect the same by an action or attachment therein or other process of law, in the name of the city, in any court of competent jurisdiction.

(c) *Proof of publication.* The director of finance shall obtain 20 copies of the advertisement, together with a certificate of the due publication thereof, from the printer or publisher or business or advertising manager of the newspaper in which the same shall have been published, and shall file one copy of the same in his office, and such certificate shall be substantially in the form that may be prescribed by the director of finance.
(Code 1969, § 8-64)

Sec. 27-70. Sale of personal property for unpaid taxes thereon.

(a) *Distress.* If any taxes on personal property remain unpaid on September 1, the director of finance shall have the power to make the same by distress and sale of personal property not exempt from taxation, and the personal tax records alone shall be sufficient warrant for such distress.

(b) *Custody, sale of distrained goods.* When the director of finance distrains goods, he shall keep them at the expense of the owner, and shall give notice of the time and place of the sale of the property within five days after the taking in the manner sheriffs are required to give notice of the sale of personal property taken under execution from magistrate court. The time of the sale shall be not more than 20 days from the day of taking the property.

(c) *Authority when taxpayer leaves city.* If anyone against whom taxes on tangible personal property or taxes on the property of merchants or manufacturers have been assessed which are due and unpaid, whether the same be delinquent or

not, shall have moved out of the city, or if the director of finance has reason to believe that such person is about to move his goods and chattels out of the city without paying such personal taxes, the director of finance shall have the power and it shall be his duty to at once proceed to collect such taxes with costs and charges by distress and sale of any goods and chattels of such person that may be found in the city, as provided herein for the distress and sale of personal property for delinquent personal taxes.

(d) *Records, accounting required.* The director of finance shall enter upon the personal tax records a brief description of the property taken, and the amount for which the same was sold. He shall render an account of the sale and charges to the owner, in writing, upon demand, and pay any surplus in his hands to such owner.
(Code 1969, § 8-65)

Sec. 27-71. Adjustment, settlement of delinquent taxes on personal property.

The city attorney may adjust or settle delinquent taxes on personal property turned over to him for collection as provided herein, with the approval of the director of finance.
(Code 1969, § 8-66)

Sec. 27-72. Suit, judgment for delinquent personal property taxes.

(a) In all suits for the collection of taxes on personal property by the city attorney, it shall be sufficient to state the amount of tax, interest, cost and penalty claimed, the years for which it is levied, the name of the owner of the personal property, and that the tax has not been paid.

(b) The judgment, if for the plaintiff, shall be that plaintiff recover the amount found due, with interest, costs and penalties, as now provided by law; also all costs of suit, and that the same is a first lien on the goods and chattels of such person, and none of the personal property of such person shall be exempt from levy and sale to satisfy execution under such judgment.
(Code 1969, § 8-67)

Sec. 27-73. Errors not to impair taxes, sales, proceedings.

Each assessment, land tax records or books, personal tax book or records, notice, advertisement, book of sales, certificate of purchase, deed, paper and document of every nature and description made or executed under or pursuant to this article shall be liberally construed to effect the purposes and objects of this article, and in determining the validity thereof. No error or irregularity in any assessment, land tax book or records, or personal tax book or records, notice, advertisement, certificate of purchase, deed, paper or document aforesaid relating to the assessment, levy or collect of the taxes of the city shall in any manner affect or impair the validity of any tax or any sale or other proceedings for collection. (Code 1969, § 8-68)

Sec. 27-74. Article deemed sufficient notice of acts and proceedings.

This article shall be taken and held to be a full and sufficient notice of all acts and proceedings for assessments, levying and collection of the taxes and special assessments of the city. (Code 1969, § 8-69)

Sec. 27-75. Abbreviations, contraction of words, numbers authorized.

Any and all descriptions of real estate, acres, blocks, lots, or any fractions or parts thereof, and any and all dates, years and valuations, taxations, taxes, interest, costs, penalties, numbers, quantities or amounts in any assessment, land tax book or records, personal tax book or records, advertisement notice, book of sales, certificate of purchase, deed, paper or document of any nature or description, made or executed under or pursuant to this article, shall be sufficient and valid when made or stated, in whole or in part, in abbreviations or contractions of words, letters, characters, or figures, as provided and for purposes similar to those mentioned in RSMo 140.180, and when so made or stated, shall be deemed and held to be fully and fairly made and stated, as though the name had been written out in full. (Code 1969, § 8-70)

Sec. 27-76. Descriptions of real estate.

(a) In describing real estate for any purpose contemplated in this article, any lot or tract may be described, as far as practicable, by reference or according to any map or plat or record of the same in the recorder's office of such county on which the lot or tract may be shown or designated. Lots and tracts covered by or shown on any such map or plat, or record thereof, shall, as far as practicable, be described consecutively in any assessment, land tax book or record, notice, advertisement and book of sales, and when the name or designation of any such map or plat, or call therefor, or the record thereof, in the way the same would be sufficiently or may be commonly known or called for in deeds of conveyance made by private persons of land shown or designated on the map, or plat of record thereof shall be inserted, wholly or partly, across the space or part of any page of any assessment, land tax book or record, advertisement, notice, or sale book, made for the description of real estate, such name or designation or call shall be deemed and taken to be part of the description of each lot or tract of land following on the same page, without repetition thereof in the description of each lot or tract, and to indicate that the lots or tracts so following are in the parcel of land covered by the map or plat or record thereof referred to or called for, until such a description is inserted as to indicate that it is of real estate not covered by the map or plat or record thereof so called for.

(b) Any and all descriptions of real estate in any assessment, land tax book or record, book of sales, advertisements, notice, certificates of purchase, receipts, deed, paper or documents of any nature or description made or executed under or pursuant to this article, when so made that the lot or tract intended may be identified or located, shall be deemed and held good, valid and complete as though the same had been written out in full. (Code 1969, § 8-71)

Sec. 27-77. Penalties for failure of officer to perform duty; effect on later performance.

If the director of finance, city clerk, other officer or responsible person shall fail to perform any duties imposed on him by this article in the time herein prescribed, such officers and responsible persons shall forfeit and pay to such city, for such failure to perform such duty on the

day required, the sum of \$25.00, and for every day after the first day on which he shall so fail to perform such duty, shall forfeit and pay to the city an additional sum of \$25.00, to be recovered of him and his sureties, in an action on his official bond, in the name of the city; but such failure to do any act or make any return on any prescribed day shall in no manner affect the validity of such act if done afterwards.
(Code 1969, § 8-72)

Sec. 27-78. Disposal/sale of undedicated city-owned real estate.

Should the city manager determine it is in the city's interest to dispose of a parcel of real property which is not dedicated to any public purpose or use, the city purchasing agent shall be authorized to entertain offers to purchase said property through the following procedure:

- (1) *Notice to general public.* A public notice containing the specifics regarding the property to be sold and the city's desire to receive offers on said property shall be placed in a newspaper of general circulation within the city. Included in this notice shall be the time, date and place of the public offering of the property for purchase.
- (2) *Notice to neighboring property owners.* Within five days of the publication of notice to the general public, written notice containing the same information as the notice to the general public shall be given by certified mail to all owners of real property abutting the property.
- (3) *Receipt of offers to purchase.* At a specific time and date no less than 45 days after publication of notice to the general public and mailing of notice to abutting property owners and at a specific place, offers to purchase the property for a stated consideration shall be received by the city purchasing agent.
- (4) *Council acceptance by ordinance approval.* The city council shall accept the best offer to purchase the property by approval of an ordinance authorizing the conveyance of the property to the purchaser for the consideration stated in the purchaser's offer. Any offer accepted

by the city shall, at a minimum, cover the advertising and recording expenses incurred by the city in entertaining offers to purchase said property.

(G.O. 1241, 11-21-94)

Secs. 27-79--27-110. Reserved.

DIVISION 2. SUITS FOR TAXES ON REAL PROPERTY*

Sec. 27-111. Scope of provisions.

(a) *Authority for suit.* When any sale of real estate shall be discontinued, or when any real estate had been bid in for the city, suit may be brought in the name of the city to enforce the collection of such taxes, general or special, with interest, cost and penalties thereon in any court of competent jurisdiction.

(b) *Contents of petition.* The petition in such case shall be sufficient if it states the amount of the tax, the rate of interest and the date from which it is claimed, the property upon which it is charged, the owner thereof, and the year for which the same is levied; or if a special tax, the date and title of the ordinance under which it is levied, and that such tax has not been paid.
(Code 1969, § 8-78)

Sec. 27-112. Joinder of causes, parties in one suit.

(a) When there are general and special taxes, or more than one year's general tax due the city upon any parcel of property, they may all be included in one suit, and when taxes on more than one parcel of land owned by the same person are due, all such parcels may be included in one suit.

(b) Owners of undivided interests may be sued jointly or severally, and each, together with his interest, charged with the proper proportion of the tax, though such tax may have been assessed as a whole.

(c) When any parcel of land has been included in the assessment of a larger parcel or tract, such

*State law reference(s)--Collection of delinquent taxes generally, RSMo ch. 140.
smaller parcel shall be charged with its fair and just proportion of the tax, which shall be determined by the court. The owners of the whole

of the larger parcels may be made defendants, and each parcel charged with a proper share of the tax, or the owners of any one or more of the smaller parcels may be sued separately.

(d) In all such cases, the several taxes and parcels of land may be set out in one cause of action, and judgment entered against each parcel for the tax, interest, costs and penalties found due thereon.
(Code 1969, § 8-79)

Sec. 27-113. Designation of defendants.

It shall be sufficient to make those persons having an interest in the property at the commencement of the suit defendants, but those who are made defendants shall be bound, and a sale thereunder shall convey all the right, title and interest of such as are made defendants, though all persons who have an interest are not made defendants or parties thereto.
(Code 1969, § 8-80)

Sec. 27-114. Priority of judgment.

A judgment hereunder for taxes, interest, costs and penalties thereon shall have priority over all other liens or encumbrances.
(Code 1969, § 8-81)

Sec. 27-115. Scope of judgment for plaintiff; execution thereon.

A judgment, if for plaintiff, shall be that plaintiff recover the amount found due, and costs of suit, to be levied on the real estate against which the tax is charged. Such judgment shall bear the same rate of interest as did the tax at the date of the judgment and execution shall issue on judgments in conformity therewith, and the sale under such judgment and execution issued thereon shall be absolute and free from any redemption.
(Code 1969, § 8-82)

Sec. 27-116. Applicability of practice and procedure in civil cases.

The proceedings in suits for the collection of taxes hereunder shall, in all respects not herein provided for, conform as near as may be to the practice and procedure in civil cases, including the sale under executions and making deed to purchaser; provided that in advertising property

for sale under such execution, it shall not be necessary to publish such advertisements in more than one daily newspaper.
(Code 1969, § 8-83)

Sec. 27-117. Director of financial services to attend, bid at execution sales.

It shall be the duty of the director of financial services to be present at all sales of real estate sold under execution upon judgment for city taxes, and on behalf of the city to bid the amount of the judgment, or a portion thereof, penalties, interest and costs upon each lot or parcel of real estate exposed for sale, provided the fair value of such real estate equals or exceeds such judgment, penalties, interest and costs, and in the event no higher bid is made to have the same struck off and sold to the city. The director of financial services may, at such sales, be represented by a person authorized to act in his/her behalf, or by the city attorney or his/her assistant.
(Code 1969, § 8-84; G.O. 2097, 5-23-05)

Secs. 27-118--27-235. Reserved.

ARTICLE III. MOTOR VEHICLE LICENSES*

Sec. 27-236. Motor vehicle license tax required, schedule of fees.

(a) Every person residing in the city who is the owner of a motor vehicle on January 1, except a motor vehicle used exclusively outside the city, shall, before permitting the operation of such vehicle upon the streets of the city, procure a license thereon for each motor vehicle so owned. The amount of license tax fees to be paid therefor shall be as follows:

- (1) All cars and trucks \$3.50
- (2) Motorcycles \$2.00
- (3) Recreational vehicles \$8.50

*Cross reference(s)--Traffic and vehicles, ch. 28.

State law reference(s)--Municipal vehicle license taxes, RSMo 301.340.

(b) The term "owner," as used in this section, shall include any person owning a motor vehicle or having the exclusive use thereof under a lease or otherwise.

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(Gen. Ord. No. 821, § 1(13-331), 9-4-90; G.O. 1676, 1-11-99)

Sec. 27-237. Licenses for automobile dealers.

(a) *Issuance, cost.* Any person licensed to engage and engaged in the selling of motor vehicles in the city shall, for the purpose of demonstrating such motor vehicles, obtain from the director of finance not less than five dealer's license cards for which the sum of \$5.00 each shall be paid, which license cards shall be furnished by the director of finance at the expense of the city.

(b) *Contents.* Each such card shall bear thereon the words "City of St. Joseph," the year when issued and the letter "D," together with a serial number which shall correspond to the number of the license issued to such dealer.

(c) *Use required.* No person engaged in selling motor vehicles in the city shall demonstrate any such motor vehicle upon any street within the city without carrying such dealer's license card in such motor vehicle.
(Gen. Ord. No. 821, § 1(13-332), 9-4-90; G.O. 1676, 1-11-99)

Sec. 27-238. Collection.

(a) The director of finance, or designated representative, shall include as a charge on bills issued for personal property taxes the fee for city motor vehicle licenses and collect the taxes with and in the same payment as personal property taxes. The license tax fee charged in Section 27-236 shall be based upon the motor vehicles listed by the owner on the assessment card or similar documentation provided by the county.

(b) If the owner of a motor vehicle is no longer a resident on January 1 of the license year, the director of finance may adjust the bill to delete the city motor vehicle license fee after the owner shows proof pursuant to affidavit set forth in Subsection (c) of this section.

(c) No resident who owns a motor vehicle used exclusively outside of the city shall be required to pay for a city motor vehicle license. An affidavit must be signed by the motor vehicle owner stating the vehicle is not used within the city limits.

(d) The provisions of this article shall not apply to any automobile owned or operated by the United States government, the state or any political subdivision thereof or by the city.
(Gen. Ord. No. 821, § 1(13-333), 9-4-90; G.O. 1676, 1-11-99)

Sec. 27-239. Issuance.

The director of finance, with the approval of the city manager, is authorized to make and adopt such rules and regulations for carrying out and applying the provisions of this article as may be necessary. Such rules and regulations may be promulgated by filing a copy thereof with the city clerk.

(Gen. Ord. No. 821, § 1(13-334), 9-4-90)

Sec. 27-240. Renewal; failure to obtain within required time.

(a) Each license for a vehicle subject to license shall be renewed and the fee paid before December 31 of the tax year.

(b) Any person failing to obtain a license shall be subject to the same penalty and interest as in Section 27-62.
(Gen. Ord. No. 821, § 1(13-335), 9-4-90; G.O. 1676, 1-11-99)

Sec. 27-241--27-275. Reserved.

ARTICLE IV. HOTELS, MOTELS AND TOURIST COURTS (BED TAX)

Sec. 27-276. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Hotel, motel or tourist court* means any structure or building, under one management, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being so provided, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests and having more than

eight bedrooms furnished for the accommodation of such guests.

- (2) *Transient guest* means a person who occupies a room in a hotel, motel or tourist court for 31 days or less.

(Code 1969, § 13-171.1(b))

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 27-277. Amount.

Every person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof, in connection with any hotel, motel or tourist court, shall pay to the city a license tax equal to six percent of the gross rental receipts derived from or paid by transient guests for sleeping accommodations. The minimum license tax under this section shall be \$5.00 per quarter-annual license.

(Code 1969, § 13-171.1(a); G.O. 2436, 7-25-11)

Editor's note: Voters approved an increase in the tax from 3% to 6% with the additional 3% only to sunset September 30, 2031.

Sec. 27-278. Due date; issuance of license.

The license tax under this article shall be paid to the director of finance quarter-annually and shall be due and payable on or before January 31, April 30, July 31 and October 31, respectively, of each year, based on the gross daily rental receipts collected during the preceding period of three months ending respectively on March 31, June 30, September 30 and December 31. Upon receipt of payment of the license tax, the director of finance shall issue the license applicant a license for the succeeding three-month period, such license expiring on March 31, June 30, September 30 and December 31.

(Code 1969, § 13-171.1(c))

Sec. 27-279. Reports required.

The licensee under this article shall make true reports to the director of finance, on forms prescribed by him, giving such information that may be necessary to determine the amounts to which the license tax shall apply for all gross daily rental receipts for the three-month period, to be submitted with quarter-annual payments. A licensee may separately state the amount of such license tax on all room accounts.

(Code 1969, § 13-171.1(d))

Sec. 27-280. Examination of books, records.

In the enforcement of this article, the director of finance and his authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the licensee as may be necessary to determine the correctness of such reports.

(Code 1969, § 13-171.1(e))

Sec. 27-281. Penalties for nonpayment.

For each and every month or part thereof any license tax provided for under this article remains unpaid after the tax becomes due and payable, there shall be added to such license tax, as a penalty, ten percent of the amount of such license tax for the first month or part thereof the same is unpaid, and for each and every month thereafter two percent of the amount of such license tax shall be added until the tax is fully paid. In no case shall the total penalty exceed 30 percent of the tax. In addition to the penalties provided in this section, any person required to pay to the city the license tax shall be subject to all other provisions of this Code not specifically provided for in this article, or in conflict with this article.

(Code 1969, § 13-171.1(f))

Secs. 27-282--27-300. Reserved.

ARTICLE V. UTILITY TAXES

Sec. 27-301. License fee required, use for mass transportation system.

(a) *Amount.* Every person or entity engaged in the business of supplying metered water services, electricity, steam or natural gas for compensation shall pay to the city, as a license fee, a sum equal to one percent of the gross receipts derived from the sale of metered water services, electricity, steam or natural gas by such person(s) or entities for any purpose; provided however, that the one percent license fee for each sale of metered water services or electricity or steam or natural gas so imposed to any one purchaser shall not exceed \$38.46 each for any one monthly billing period.

(b) *Limitation on use of revenue.* The revenue derived from the imposition of the license fee shall be used solely for the purpose of financing

the public mass transportation system for the city and for no other purpose.

(c) *Nonapplicability.* The license fee shall not be applicable to any department and/or program operating as a part of the governmental unit of the City of St. Joseph. (Gen. Ord. No. 148, § 1(13-576), 2-22-84; G.O. 966, 5-26-94; G.O. 2073, 2-14-05)

Editor's note: Judge Robb's "Findings of Fact, Conclusions of Law and Order", dated 7-24-92, re-enacted G.O. 148, 2-22-84.

Sec. 27-302. Electric light or power companies.

(a) *Amount of license fee.* Every person or entity engaged in the business of supplying electricity for compensation shall pay to the city a graduated gross receipts license fee derived from the sale of electricity by such person(s) or entities to each individual purchaser for any purpose except residential under the vendor's applicable general service rate schedule on file with and approved by the public service commission of the state, based upon the following rates and gross receipts sales of electricity as applied to the monthly bills for each such commercial or industrial purchaser, to-wit:

Rate (percent)	Gross Receipts Sales
6 1/2	On the first \$4,000.00
4	From \$4,000.01 to \$20,000.00
2	From \$20,000.01 to \$30,000.00
1/2	On any amount above \$30,000.01

(b) *Nonapplicability.* The license fee shall not be applicable to any department and/or program operating as a part of the governmental unit of the City of St. Joseph.

(c) *Returns.* Every person or entity engaged in the business described in this section shall file with the director of financial services on the last day of each month a statement of the gross receipts of such person or entity derived from the sale of commercial or industrial electricity during the month next preceding the month in which the statement is filed. The statement required shall be made under oath.

(d) *Payment to accompany return.* At the time of filing such statement, such person or entity shall pay to the director of financial services of

the city a sum equal to 6.5 percent of the gross receipts derived from the sale of electricity by such person for commercial or industrial purposes as shown by such statement.

(e) *Examination of returns.* The director of financial services or any other duly authorized representative of the city shall have the right to investigate the correctness of books and records of such person or entity for such purpose at all reasonable times.

(f) *Penalties for violations.* Any person or entity operating any electric light or power business who shall fail to file a report as required in this section and shall fail or refuse to pay the license fee provided for in this section when due shall, for such failure, pay as a penalty to the city ten percent of the fee due and unpaid for the first month or any part thereof and for each and every month thereafter, three percent of such fee as long as the fee and tax shall remain unpaid.

(g) *Effect on prior rights, franchises.* The license fee provided for in this section shall not be construed to affect any prior or existing rights or franchise privileges within the city. (Code 1969, § 13-555; Gen. Ord. No. 1033, § 1(13-555), 11-4-92; G.O. 1974, 9-29-03; G.O. 2074, 2-14-05)

Sec. 27-303. Gas companies.

(a) *Amount of license fee.* Every person or entity engaged in the business of supplying gas for compensation through pipes along, under or through the streets, alleys, parkways or other publicly owned premises in the city shall pay to the city as a license fee a sum equal to 6.5 percent of the gross amount received by such person(s) or entities from the sale of gas sold for any purpose except residential under the vendor's applicable "general service" rate schedule on file with and approved by the state public service commission.

(b) *Nonapplicability.* The license fee shall not be applicable to any department and/or program operating as a part of the governmental unit of the City of St. Joseph.

(c) *Returns.* Every person or entity engaged in the business described in this section shall file

with the director of financial services on or before
the last day of each month a statement of

the gross receipts of such person from the sale of commercial, industrial and all other sales of gas during the month next preceding the month in which the statement is filed. Such statements shall be properly signed, certified and sworn to by an authorized representative of the person or entity making such statement, and the statement shall be filed with the director of financial services.

(d) *Payment to accompany returns.* At the time of filing such statement, such person or entity shall pay to the director of financial services a sum equal to 6.5 percent of the gross receipts derived from the sale of gas by such person or entity for commercial or industrial purposes as shown by such statement.

(e) *Examination of returns.* The director of financial services or any other duly authorized representative of the city shall have the right to investigate the correctness of such statement at all times and shall have access to the books and the records of such person or entity for such purpose.

(f) *Penalties for violations.* Any person or entity operating any business described in this section who shall fail to file a report as required in this section and shall fail or refuse to pay the license fee provided for in this section when due shall, for such failure, pay as a penalty to the city ten percent of the fee due and unpaid for the first month or any part thereof, and for each succeeding month or any part thereof such person shall pay as a penalty three percent of such fee as long as the fee shall remain unpaid.

(Gen. Ord. No. 963, § 1(13-556), 5-26-92; G.O. 2075, 2-14-05)

Cross reference(s)--Gas utilities, § 29-26 et seq.

Sec. 27-304. High pressure steam companies.

(a) *Amount of license fee.* Every person or entity engaged in the business of supplying steam for compensation through pipes along, under or through the streets, alleys, parkways or other publicly owned premises in the city shall pay to the city, as a license fee, a sum equal to one-half of one percent of the gross receipts derived from the sale of steam for heating purposes by such person(s) or entities for any purpose except residential.

(b) *Nonapplicability.* The license fee shall not be applicable to any department and/or program

operating as a part of the governmental unit of the City of St. Joseph.

(c) *Returns.* Every person or entity engaged in the business described in this section shall file with the director of financial services on or before the last day of each month a statement of the gross receipts of such person or entity from the sale of steam during the month next preceding the month in which the statement is filed. The statement shall be made under oath.

(d) *Payment to accompany returns.* At the time of filing such statement, such person or entity shall pay to the director of financial services a sum equal to one-half of one percent of the gross receipts derived from the sale of steam by such person or entity for commercial or industrial purposes as shown by such statement.

(e) *Examination of returns.* The director of financial services shall have the right to investigate the correctness of such statements at all times and shall have access to the books and records of such person or entity for such purposes at all reasonable times.

(f) *Penalties for violations.* Any person or entity operating any steam heating business described in this section who shall fail to file a report as required in this section and shall fail or refuse to pay the license fee provided for in this section when due shall, for such failure, pay as a penalty to the city ten percent of the fee due and unpaid for the first month or any part thereof and for each and every month thereafter three percent of such fee and tax as long as the fee shall remain unpaid.

(g) *Effect on prior rights, franchises.* The license fee provided for in this section shall not be construed to affect any prior or existing rights or franchise privileges within the city.

(Gen. Ord. No. 1034, § 1(13-564), 11-4-92; G.O. 2076, 2-14-05)

Sec. 27-305. Telephone companies.

(a) *Imposition, amount of license fee.* Every person or entity engaged in the business of operating for compensation a telephone communicating system, together with plant and facilities, including radio transmitters, and through wires and cables upon poles or in conduits along, upon, over or under the streets,

alleys, parkways or other publicly owned premises within the city and other telephonic communication equipment shall pay to the city as a license fee a sum equal to seven percent of the gross amount received by such person(s) or entities as revenues for any purpose except residential.

(b) *Nonapplicability.* The license fee shall not be applicable to any department and/or program operating as a part of the governmental unit of the City of St. Joseph.

(c) *Returns, payment of fee.* It shall be the duty of every person or entity engaged in the business described in this section to file with the director of financial services on or before the last day of each month a statement of the gross receipts of such person or entity derived from the charges for the services received for telephone and radio service and facilities from commercial, business and industrial users during the month next preceding the month in which the statement is filed. Each statement is to be based on the monthly closing of the books of such person or entity, and at the time of filing such statement such person or entity shall pay to the director of financial services a sum equal to seven percent of the amount shown by such statement. Such statements shall be properly signed, certified and sworn to by an authorized representative of the person or entity making such statement, and the statement shall be filed with the director of financial services.

(d) *Examination of returns.* Any duly designated representative of the city shall have the right to investigate the correctness of such statements at all times and shall have access to the books and records of such person or entity for such purpose.

(e) *Penalties for violations.* Any person or entity operating any business described in this section pertaining to telephone and radio communication systems who shall fail to file the reports as required in this section or who shall fail to pay the license fee provided for in this section when due shall, for such failure, pay as a penalty to the city ten percent of the fee due and unpaid for the first 30 days or any part thereof and for each and every month thereafter three percent of such fee as long as the fee shall remain unpaid.
(Code 1969, § 13-565; G.O. 2080, 3-1-05)

Sec. 27-306. Water companies.

(a) *Amount of license fee.* Every person or entity engaged in the business of distributing and selling water for commercial or industrial use through the mains or pipelines laid in the streets, alleys and other public thoroughfares in the city shall pay to the city as a license fee a sum equal to 6.5% of the gross amount received by such person(s) or entities from the sale of water sold for any purpose except residential as such receipts are shown by the commercial or industrial accounts maintained by such person or entity, as authorized by the state public service commission, for the use and occupation of the streets, alleys and other public highways of the city by such person or entity for his/her/its distributive system.

(b) *Nonapplicability.* The license fee shall not be applicable to any department and/or program operating as a part of the governmental unit of the City of St. Joseph.

(c) *Returns.* Every person or entity engaged in the business of distributing and selling water for commercial or industrial purposes in the city shall file with the director of financial services on or before the last day of each month a statement, under oath, of the gross receipts of such person or entity from such business for the month immediately preceding the month in which the statement is filed.

(d) *Payment to accompany returns.* At the time of filing such statement, the person or entity filing such statement shall also pay to the director of financial services an amount equal to 6.5% of the gross receipts derived from the sale of water by such person or entity for commercial or industrial purposes as shown by such statement.

(e) *Examination of returns.* The director of financial services or any other duly authorized representative of the city shall have the right to investigate the correctness of such statements at all times and shall have access to the books and records of such person or entity for such purposes at all reasonable times.

(f) *Scope of license fee.* The license fee required in this section to be paid shall be a license fee on and for the use and occupation of the streets, alleys and other public highways of the city for the pipelines and mains of the

distributing system of the person or entity engaged in the business of selling water for commercial or industrial use in the city, and nothing contained in this section shall be so construed as to exempt any such person or entity from the payment to the city of the taxes that the city levies upon any real or personal property belonging to such person or entity.

(g) *Effect on prior rights, franchises.* The license fee and fee provided for in this section shall not be construed to affect any prior or existing rights or franchise privileges within the city.

(h) *Penalties for violations.* Any person or entity failing to file a statement or pay the license fee as provided for in this section shall pay as a penalty to the city 10% of the amount of the fee due for the first month or part thereof the fee is unpaid and for each and every month thereafter three percent of the amount of such fee until the fee is fully paid.

(Gen. Ord. No. 965, § 1(13-568), 5-26-92; G.O. 2079, 2-14-05)

Cross reference(s)--Water utilities, § 29-51 et seq.

Secs. 27-307--27-335. Reserved.

ARTICLE VI. CIGARETTES

Sec. 27-336. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Cigarette* means any roll used for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.
- (2) *Occupation license tax* means the tax imposed by the city under this article upon the business and for the privilege of selling cigarettes at retail in the city.
- (3) *Package* means the quantity of cigarettes wrapped and sealed in paper, tinfoil or otherwise by the manufacturer of

cigarettes prior to being placed in cartons and shipped from the manufacturer.

- (4) *Retail dealer* means any person other than a wholesale dealer, jobber or manufacturer engaged in the business of selling cigarettes, by personal handling or through a vending machine, to the ultimate consumer or agent.
- (5) *Sale* means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration or by agreement therefor.
- (6) *Vending machine* means a mechanical device used for the sale and dispensing of cigarettes and automatically operated by the purchaser through the deposit of coins, slugs or tokens.
- (7) *Wholesale dealer* means any person who shall sell, distribute, deliver, convey or give away cigarettes to retail dealers or other persons in the city, for the purpose of resale only.

(Code 1969, § 13-379; G.O. 1464, 9-23-96)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 27-337. License required; tax.

Every wholesale dealer, jobber, retail dealer, manufacturer or other person engaged in selling cigarettes or offering, delivering or displaying cigarettes for sale within the city shall procure a license therefor for each place of business that desires to have for the sale or distribution of cigarettes. At the time such license is issued, the person shall pay to the director of finance the sum of \$5.00 for each such place of business, and in addition to the registration fee, every retailer shall pay an occupation license tax at the rate of \$2.50 per 1,000 for each and all cigarettes sold, offered, delivered or displayed for sale.

(Code 1969, § 13-380; G.O. 1416, 6-3-96; G.O. 1464, 9-23-96)

Sec. 27-338. Payment of tax.

(a) *Payment due date.* The tax provided by Section 27-337 shall be paid by the 15th day of the next month following the month for which said tax is due.

(b) *Duty of wholesaler, jobber.* Every wholesaler or jobber shall generate a report detailing daily purchases and returns of cigarette sales by customers within the city.

(c) *Report design.* Monthly cigarette sales reports shall detail each day the invoice number, customer name and total cigarettes purchased by each customer.

(d) *Payment of tax.* There shall be paid to the director of finance a tax at the rate of \$2.50 per 1,000 for each and all cigarettes sold. The director of finance shall allow the wholesaler or jobber a discount of 4% of the fee due to cover tax collection costs. Payment of tax will be submitted with the report due each 15th day of the month.

(Code 1969, § 13-381; G.O. 1464, 9-23-96)

Sec. 27-339. Sale of cigarettes.

No person shall sell or offer or display for sale at retail any cigarettes unless said tax has been paid.

(Code 1969, § 13-382; G.O. 1464, 9-23-96)

Sec. 27-340. Licensing of vending machines.

(a) *Required.* Every person who, in the capacity of owner, lessee, tenant or in any other capacity, shall operate or cause to be operated, directly or indirectly, a vending machine for selling and dispensing cigarettes to the public shall obtain from the director of finance a license. The license, in whatever form prescribed by the director of finance, shall be affixed on a conspicuous part of the vending machine.

(b) *Violations.* It shall be unlawful for any person to sell and dispense through a vending machine any cigarettes upon which the tax has not been paid. It shall be unlawful for any person, through a vending machine, to remove the container of cigarettes, in whole or in part, or mutilate the container, before the tax thereon has been paid.

(Code 1969, § 13-383; G.O. 1464, 9-23-96)

Sec. 27-341. Application for license.

Every application for a cigarette license shall be made on a form prescribed, prepared and furnished by the director of finance and shall set forth such information as required.

(Code 1969, § 13-384; G.O. 1464, 9-23-96)

Sec. 27-342. Issuance of license upon approval of application.

Upon approval of an application for a cigarette license, the director of finance shall grant and issue to the applicant a cigarette license.

(Code 1969, § 13-385; G.O. 1464, 9-23-96)

Sec. 27-343. Assignment, transfer of licenses.

Cigarette licenses shall not be assignable and shall be valid only for the persons in whose names issued, and for the transaction of business in the places designated therein.

(Code 1969, § 13-386; G.O. 1464, 9-23-96)

Sec. 27-344. Display of license.

Cigarette licenses shall at all times be conspicuously displayed at the places for which issued.

(Code 1969, § 13-387; G.O. 1464, 9-23-96)

Sec. 27-345. Expiration of license.

All cigarette licenses shall expire on June 30 in each and every year, unless sooner suspended, surrendered or revoked for cause by the director of finance.

(Code 1969, § 13-388; G.O. 1464, 9-23-96)

Charter reference(s)--Licensing period, § 14.2.

Sec. 27-346. Suspension, revocation of license.

(a) *Report of violation.* Whenever the director of finance finds that the holder of a cigarette license has failed to comply with any of the provisions of this article or any rules or regulations of the director of finance prescribed or promulgated under this article, the director of finance shall notify the city council of such violation of this article or regulations and shall submit to the city council evidence of violation and a full report thereof.

(b) *Hearing.* The city council shall afford the person alleged to have violated this article or regulations a hearing at such time and place as the city council may designate, and the city council may thereafter, for good cause shown, suspend or revoke the cigarette license of the offender whenever it finds that the provisions of this article or the rules and regulations of the director of

finance prescribed or promulgated under this article have not been complied with.

(c) *Notice of penalty.* When the city council suspends or revokes a cigarette license, the director of finance shall notify the holder of the license immediately, and the holder shall promptly surrender the license to the director of finance on request.

(Code 1969, § 13-390; G.O. 1464, 9-23-96)

Sec. 27-347. Examination of books, records, other pertinent data, equipment.

The director of finance or duly authorized representatives are authorized to examine books, records, invoices, papers, stock of cigarettes in and upon any premises where the cigarettes are placed, stored or sold and equipment of any such wholesale dealer or jobber pertaining to the sale and delivery of cigarettes taxable under this article. To verify the accuracy of the occupation tax imposed and assessed by this article, each such person is directed and required to give to the director of finance or duly authorized representatives the means, facilities and opportunity for such examinations as are provided for and required in this section.

(Code 1969, § 13-393; G.O. 1464, 9-23-96)

Sec. 27-348. Power to prescribe rules and regulations.

In addition to the other powers granted, the director of finance is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the following matters:

- (1) The delegation of the powers of the director of finance to a deputy or employee of the finance office to enforce payment of tax.
- (2) Any other matter or thing pertaining to the administration and enforcement of the provisions of this article, subject at all times to the approval of the city council.

(Code 1969, § 13-394; G.O. 1464, 9-23-96)

Sec. 27-349. Refund of tax.

Whenever any cigarettes have been sold and shipped by a wholesale dealer, jobber or retail dealer into another city or state for sale or use there or have become unfit for use and

consumption or are unsalable or have been destroyed, such wholesale dealer, jobber or retail dealer shall be entitled to a refund of the actual amount of tax paid on such cigarettes. If the director of finance or duly authorized representative is satisfied that any wholesale dealer, jobber or retail dealer is entitled to a refund, they shall be authorized to make the refund.

(Gen. Ord. No. 869, § 1(13-396), 4-29-91; G.O. 1464, 9-23-96)

Sec. 27-350. Confiscation of untaxed cigarettes.

(a) Whenever the director of finance or any duly authorized representatives shall discover any cigarettes subject to tax provided by this article and upon which the occupation license tax has not been paid as required in this article, the director of finance or such representative is authorized and empowered forthwith to seize and take possession of such cigarettes, together with any vending machine or other automatic mechanical device for selling and dispensing cigarettes or receptacles in which they are held for sale, and the cigarettes, machines or devices shall thereupon be deemed to be forfeited to the city.

(b) The director of finance may, within a reasonable time thereafter, by public notice at least five days before the day of sale, sell such forfeited cigarettes at a place designated, and from the proceeds of such sale shall collect the tax due thereon, together with a penalty of 50% thereof and the costs incurred in such proceedings. The director of finance shall pay the balance, if any, to the person in whose possession such forfeited cigarettes were found; provided, however, such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided in this code for violation of any provision of this article.

(Code 1969, § 13-397; G.O. 1464, 9-23-96)

Sec. 27-351. Power to administer oaths, take affidavits, issue subpoenas.

The director of finance or employees or agents duly designated shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this article. The director of finance

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shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of the duties under this article and the enforcement of this article and to examine them in relation thereto.

(Code 1969, § 13-399; G.O. 1464, 9-23-96)

(Code 1969, § 13-398; G.O. 1464, 9-23-96)

Sec. 27-352. Violations and penalties.

The following penalties are hereby fixed and imposed for the violation of this article:

- (1) Any person violating any of the provisions of this article, except Section 27-339, shall be deemed guilty of a misdemeanor and, upon first conviction thereof be fined in the sum of not less than \$10.00 and not more than \$500.00; upon second conviction thereof, in the sum of not less than \$25.00 and not more than \$500.00; and upon any subsequent conviction thereof shall be fined in the sum of not less than \$100.00 and not more than \$500.00. If the person so subsequently convicted shall be a licensed wholesale dealer, jobber or retail dealer in cigarettes, his license shall thereupon be revoked, and the license shall not be renewed for a period of one year therefrom.
- (2) Any person violating Section 27-339 relating to selling or offering for sale or displaying for sale at retail any cigarettes, the containers of which said tax is not evidenced as being paid, shall be fined not less than \$10.00 and not more than \$500.00; upon second conviction thereof, in the sum of not less than \$25.00 and not more than \$500.00; and upon any subsequent conviction thereof shall be fined in the sum of not less than \$100.00 and not more than \$500.00. If the person so subsequently convicted shall be a licensed wholesale dealer, jobber or retail dealer, his license shall thereupon be revoked and the license shall not be renewed for a period of one year therefrom.
- (3) Each day's violation of Subsections (1) and (2) of this section shall be deemed a separate offense.

(1/1/12)