

IN THE CIRCUIT COURT
OF ST. LOUIS COUNTY, MISSOURI

CITY OF WINCHESTER, MISSOURI;)
and CITY OF CREVE COEUR,)
MISSOURI;)
)
On behalf of themselves and all)
others similarly situated,)
)
)
Plaintiffs,)
)
v.)
)
AMEREN CORPORATION; and)
UNION ELECTRIC COMPANY)
d/b/a AMERENUE and AMEREN)
MISSOURI;)
)
)
Defendants.)

Cause No.

Division No.



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PETITION FOR DECLARATORY JUDGMENT AND OTHER RELIEF

COME NOW Plaintiffs, City of Winchester, Missouri and City of Creve Coeur, Missouri (collectively "Plaintiffs"), on behalf of themselves and all others similarly situated, and for their Petition for Declaratory Judgment and Other Relief, state as follows:

PARTIES

1. The City of Winchester, Missouri ("Winchester") is a lawfully existing Missouri municipal corporation and city of the fourth class within the meaning of § 72.040, RSMo, § 79.010, RSMo, and all other applicable laws, and it has been at all times during the preceding five years and at all other times relevant to this action. Winchester is located within St. Louis County, Missouri.

2. The City of Creve Coeur, Missouri ("Creve Coeur") is a lawfully existing Missouri municipal corporation and home rule charter city within the meaning of Mo. Const. art.

VI, § 19, § 82.010, RSMo, *et seq.*, and all other applicable laws, and it has been at all times during the preceding five years and at all other times relevant to this action. Creve Coeur is located within St. Louis County, Missouri.

3. Plaintiffs impose a business license (or gross receipts) tax on companies engaged in the business of furnishing or supplying electricity, electrical service or power in Plaintiffs.

4. Defendant, Ameren Corporation, is a Missouri corporation with its principal place of business in the City of St. Louis. It is the parent of Union Electric Company d/b/a AmerenUE and Ameren Missouri (collectively “Defendants”). Ameren’s operating companies provide electric power service to over 2.4 million customers throughout a 64,000 square mile service territory within Missouri and Illinois, including within St. Louis County, Missouri.

5. Defendant, Union Electric Company d/b/a AmerenUE and Ameren Missouri, is a Missouri corporation with its principal place of business in the City of St. Louis. It is a subsidiary of Ameren Corporation. Union Electric Company d/b/a AmerenUE and Ameren Missouri provides electric power service to 1.2 million customers in Missouri, including in St. Louis County, Missouri.

6. Defendants own electric distribution poles and utilize them to deliver electricity to customers in Missouri, including in Winchester and Creve Coeur. As part of their regular business operations, Defendants allow pole attachments by cable TV (“CATV”) companies, communications providers, and other parties pursuant to federal law, joint use agreements, master facilities license agreements, and similar arrangements. In addition, Defendants allow street lighting attachments by subdivisions, local governmental entities, and other parties pursuant to tariffs, franchise ordinances, and agreements between Defendants and the involved parties. In return, Defendants receive payments based on the number of street lights, pole

attachments and other criteria. Defendants allow other uses of their rights-of-ways, easements, facilities, networks, properties and infrastructures (collectively “the System”) by third parties for compensation. Defendants maintain that Plaintiffs’ (and other cities’) gross receipts tax ordinances do not apply to the foregoing receipts, and they have failed and refused to pay license taxes thereon.

7. Plaintiffs do not know the nature and extent of other gross receipts that Defendants have unilaterally excluded from the license tax base. Plaintiffs’ codes and ordinances require Defendants to file statements showing the gross receipts derived from their business(es) in Plaintiffs and, at the same time, to pay license taxes thereon. In practice, Defendants report a total amount of gross receipts without itemization. Plaintiffs have reason to believe that there is underreporting based on Defendants’ stated position that only customer service rates in tariffs approved by the Missouri Public Service Commission are subject to municipal taxation, which is incorrect as a matter of law.

8. Venue is proper pursuant to §508.010.2, RSMo, because Plaintiffs Winchester and Creve Coeur reside in St. Louis County and Defendants can be found and do business there.

CLASS ACTION ALLEGATIONS

9. This action is brought by Plaintiffs pursuant to Missouri Supreme Court Rule 52.08 on behalf of themselves and all other Missouri municipal corporations and political subdivisions similarly situated, to wit: all Missouri cities and political subdivisions located in Defendants’ service areas that have ordinances in effect that impose a business or occupational license tax on the receipts of any person engaged in the business of supplying or furnishing electricity, electrical service, and/or power service in the city or political subdivision, or who is otherwise engaged in an electric business therein.

10. The proposed class includes more than 40 Missouri municipal corporations, many of which are small entities with very limited staff and resources and with little or no funds available for litigation of this nature. The class is so numerous that joinder of all members is impracticable.

11. The claims asserted by Plaintiffs on behalf of themselves and members of the class present questions of law or fact common to the class, including, *inter alia*, whether Defendants generate gross receipts from street lights, pole attachments, and uses of the System by others and, if so, whether these and other gross receipts are subject to municipal taxation.

12. The claims asserted by Plaintiffs on behalf of themselves are typical of the claims of the class in that their license tax ordinances are similar and the laws that apply thereto are similar.

13. Plaintiffs will fairly and adequately protect the interests of class members. Their interests are aligned, and Winchester has been found fit to serve as a class representative in actions to collect unpaid business or occupational license taxes on behalf of Missouri municipalities.

14. The prosecution of separate actions by individual members of the class would create a risk of: a) inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for Defendants; and b) adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

15. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with

respect to the class as a whole. Defendants maintain that said license tax ordinances do not apply to the payments received by Defendants in exchange for street lights, pole attachments and other uses of the System, and they have failed and refused to pay license taxes thereon. Defendants' stated position that only customer service rates in tariffs approved by the Missouri Public Service Commission are subject to municipal taxation is common to the class.

16. The questions of law or fact common to class members (*e.g.*, whether Defendants generate gross receipts from street lights, pole attachments, and uses of the System by others and, if so, whether these and other gross receipts are subject to municipal taxation) predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

COUNT I – DECLARATORY JUDGMENT, INJUNCTION AND ACCOUNTING
(LICENSE TAXES)

17. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1-16 of this petition as if more fully set forth herein.

18. Winchester has compiled its ordinances. It has adopted and codified them in the Winchester Municipal Code. Its Municipal Code includes license taxes on electric utilities, like Defendants, which are set forth in Chapter 615, Article III, and Chapter 100, Article IV, copies of which are attached hereto and incorporated by reference herein as Exhibit "A." These provisions have been in effect at all times during the preceding five years and at all other times relevant to this action.

19. Creve Coeur has compiled its ordinances. It has adopted and codified them in the Creve Coeur Municipal Code. Its Municipal Code includes license taxes on electric utilities, like Defendants, which are set forth in Chapter 635, Article II, and Chapter 100, §§ 100.090-100.110, copies of which are attached hereto and incorporated by reference herein as Exhibit "B." These

provisions have been in effect at all times during the preceding five years and at all other times relevant to this action.

20. The other class members have license tax ordinances similar to those of Plaintiffs, with gross receipts statement filing requirements, and interest and penalty provisions for failure to pay the taxes or to otherwise comply with the ordinances. Most of the other class members also have compiled ordinances that they have adopted and codified in their codes.

21. Defendants are engaged in the business of furnishing or supplying electricity, electrical service or power in Plaintiffs and other Missouri municipalities or are otherwise engaged in an electric business therein within the meaning of Plaintiffs' and other municipalities' license tax ordinances, and Defendants derive gross receipts from such business, and they have engaged in such business and have derived gross receipts therefrom at all times during the preceding five years and at all other times relevant to this action.

22. Plaintiffs have informed Defendants of their license tax ordinances and of the expectation of compliance therewith. Defendants have failed and refused to file complete statements and to pay all required license taxes during the preceding five years and at all other times relevant to this action. Accordingly, Defendants owe Plaintiffs license taxes, interest and penalties for said period.

23. Defendants' operations are those of an electric power company within the meaning of Plaintiffs' and class members' business license tax ordinances, §§ 94.110, 94.270, and 94.360, RSMo, and applicable charters, and have been at all times during the preceding five years and at all other times relevant to this action.

24. Defendants furnish and supply electricity in Plaintiffs and other municipalities within the meaning of Plaintiffs' and class members' business license tax ordinances, and they

have done so at all times during the preceding five years and at all other times relevant to this action.

25. Defendants engage in business in Plaintiffs and other municipalities and they derive gross receipts therefrom, and such has been the case at all times during the preceding five years and at all other times relevant to this action, in connection with their business(es) or service(s) that are the subjects of this action.

26. As part of their regular operations in Plaintiffs and other municipalities, Defendants make electric distribution system poles available to businesses, subdivisions, local governments, and other third parties (collectively "Licensees") that require attachments. They also make available to Licensees ducts, conduits, manholes, vaults, innerducts, rights-of-ways, easements, and other parts of the System. The Licensees utilize Defendants' facilities to attach street lights, communications devices, cables, wires, power supply equipment, and other hardware needed in their operations.

27. The Licensees pay Defendants certain fees pursuant to tariffs and/or contracts, such as application fees, attachment fees, use fees, occupancy fees and carrying charges, based in whole or in part upon the number of pole attachments and/or the space used. They also pay Defendants for all electricity used, including electricity consumed by their power supply equipment. Plaintiffs do not claim that any of the foregoing rates are excessive or unjustly discriminatory.

28. Defendants do not fully report or pay the required license taxes on gross receipts derived from these fees and other sources of revenue, and such has been the case at all times during the preceding five years and at all other times relevant to this action, in connection with

their business(es) or service(s) in Plaintiffs and other municipalities that are the subjects of this action.

29. A justiciable controversy exists between Plaintiffs and Defendants.

30. Plaintiffs do not have an adequate remedy at law. Defendants' violations of municipal tax ordinances are continuing and/or are being constantly repeated, so that without equitable relief municipalities would be required to bring successive actions to enforce the ordinances.

31. Unless Defendants are enjoined from violating Plaintiffs' license tax ordinances, Plaintiffs will suffer irreparable harm and/or injury. Plaintiffs and other municipalities are being deprived of revenues needed for the public health, safety and welfare. In all probability, unless Defendants are so enjoined, Plaintiffs will continue to be deprived of such revenues in that Defendants have failed and refused to pay the required license taxes but intend to continue engaging in their business(es) in Plaintiffs and other municipalities and deriving gross receipts therefrom.

32. Defendants have a legal and fiduciary duty to keep and maintain accurate accounts and records of the gross receipts they derive from their business in Plaintiffs and other municipalities and to file complete statements showing the amount(s) thereof.

33. An accounting is necessary to show the amount(s) due Plaintiffs and other municipalities from Defendants for the past five years. Defendants have received substantial amounts of revenue from pole attachment fees and other sources during this period and have control of the pertinent records and account data.

34. An accounting will quantify the extent to which Defendants have not correctly reported their gross receipts or included all categories of receipts subject to payment of a license

tax under Plaintiffs' and other municipalities' ordinances, so that Defendants can be ordered to pay the license taxes owed, with applicable interest and penalties.

35. Plaintiffs have incurred and will continue to incur costs and attorneys' fees necessary for the investigation and prosecution of this action. The attorneys' fees and other expenditures have resulted in a benefit to all members of the class, and Plaintiffs' counsel should recover same pursuant to applicable law.

WHEREFORE, Plaintiffs, on behalf of themselves and all other Missouri municipal corporations and political subdivisions similarly situated, pray that this Court:

A. Declare and adjudge that the gross receipts derived by Defendants from pole attachments and other unreported sources are subject to taxation under municipal license tax ordinances.

B. Declare and adjudge that Defendants owe Plaintiffs and other municipalities said license taxes for the preceding five years and thereafter, and for all other permitted times, together with interest and penalties.

C. Order an accounting of all monies Defendants owe Plaintiffs and other municipalities under said license tax ordinances or an audit of Defendants' gross receipts.

D. Enjoin and restrain Defendants from violating the license tax ordinances of Plaintiffs and other municipalities by engaging in business subject to the ordinances but not filing the required statements showing the gross receipts derived therefrom and paying all required taxes thereon.

E. Award attorneys' fees and costs from the amount(s) recovered for the common benefit of the class.

F. Order such other and further relief as the Court deems just and proper under the

circumstances.

COUNT II – BACK TAXES, INTEREST AND PENALTIES (LICENSE TAXES)

36. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1-35 of this petition as if more fully set forth herein.

37. Defendants owe Plaintiffs and other municipalities back taxes, with interest and penalties, as a result of their failure and refusal to comply with Plaintiffs' and other municipalities' business license tax ordinances.

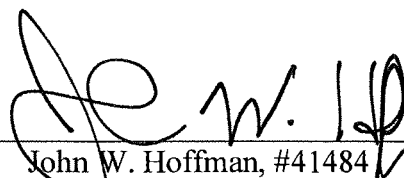
WHEREFORE, Plaintiffs, on behalf of themselves and all other Missouri municipal corporations and political subdivisions similarly situated, pray that this Court:

A. Enter judgment in favor of each class member and against Defendants for the license tax, interest and penalty due each class member from Defendants.

B. Award attorneys' fees and costs from the amount(s) recovered for the common benefit of the class.

C. Order such other and further relief as the Court deems just and proper under the circumstances.

By: _____



John W. Hoffman, #41484
Douglas R. Sprong, #39585
Korein Tillery, LLC
505 N. 7th Street, Suite 3600
St. Louis, MO 63101
Tel. (314) 241-4844
Fax. (314) 241-1854

Leland B. Curtis, #20550
Carl J. Lumley, #32869
Curtis, Heinz, Garrett & O'Keefe, P.C.
130 S. Bemiston, Ste. 200
Clayton, MO 63105
Tel. (314) 725-8788
Fax. (314) 725-8789

John F. Mulligan, Jr., #34431
101 South Hanley, Ste. 1280
Clayton, MO 63105
Tel. (314) 725-1135
Fax. (314) 727-9071

Howard Paperner, P.C. #23488
9322 Manchester Road
St. Louis, MO 63119
Tel. (314) 961-0097
Fax. (314) 961-0667

ATTORNEYS FOR PLAINTIFFS

ARTICLE III. ELECTRIC SERVICE

SECTION 615.060: LICENSE TAX -- PERCENTAGE OF GROSS RECEIPTS

Pursuant to the Laws of Missouri, every person, firm or corporation now or hereafter engaged in the business of supplying or furnishing electricity or electrical service or power in the City of Winchester, Missouri, shall pay to the said City as a license or occupational tax six percent (6%) of the gross receipts derived from such business within the said City. (CC 1981 §630.010; Ord. No. 254 §1, 5-22-68)

SECTION 615.070: STATEMENT OF GROSS RECEIPTS

Every person, firm or corporation engaged in the business hereinbefore set forth in the City of Winchester is hereby required to file with the City Clerk of said City, on or before the last day of each calendar month, a sworn statement showing the gross receipts derived from such business during the preceding calendar month; and at the same time pay to the City Treasurer the tax hereinbefore set forth. (CC 1981 §630.020; Ord. No. 488 §2, 4-11-79)

SECTION 615.080: INVESTIGATION OF STATEMENTS -- ACCESS TO BOOKS

The City Clerk and such other persons as may be designated by the Board of Aldermen from time to time is and are hereby authorized to investigate the correctness and accuracy of the statement so filed and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such return in order to ascertain the accuracy thereof. (CC 1981 §630.030; Ord. No. 49 §3, 6-5-57)

SECTION 615.090: LICENSE TAX -- NOT IN LIEU OF OTHER TAXES

Nothing contained in this Chapter shall be so construed as to exempt any person, firm or corporation to which this Chapter is applicable from the payment to the City of Winchester of the tax which the said City levies upon the real or personal property belonging to such person, firm or corporation. (CC 1981 §630.040; Ord. No. 49 §4, 6-5-57)



ARTICLE IV. PENALTY

SECTION 100.260: GENERAL PENALTY

A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the City or County Jail not exceeding three (3) months, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County Jail.

B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

ARTICLE II. ELECTRIC

SECTION 635.050: DEFINITION

As used in this Article, the term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in Section 635.060 relative to the business of supplying electric or electric service for compensation in the City during any period, less discounts, credits, refunds, charges for license, occupation or franchise taxes, sales taxes and uncollectible accounts actually charged off during the period. (R.O. 2008 §15-186; Ord. No. 2299 §5, 7-12-04)

Cross Reference--Definitions and rules of construction generally, §100.020.

SECTION 635.060: TAX LEVIED

Every person now or hereafter engaged in the business of supplying electric [electricity] or electric service for compensation for any purpose in the City shall pay to the City, as a license or occupation tax, six percent (6%) of the gross receipts from such business in the City. Effective July 1, 2005, the tax rate shall increase to seven percent (7%) of gross receipts. (R.O. 2008 §15-187; Ord. No. 2299 §5, 7-12-04)

SECTION 635.070: STATEMENT OF GROSS RECEIPTS REQUIRED -- PAYMENT OF TAX -- CREDIT FOR SERVICE RENDERED TO CITY

All persons engaged in the business of furnishing electric or electric service in the City are hereby required to file with the Finance Director a sworn statement showing the gross receipts of such business within the City. For the business transacted and the gross receipts each month, a statement shall be due and filed by the last day of the following month. At the same time the statement is required to be filed, payment of the tax due on the gross receipts reported in the statement shall be made to the City at the rate set forth in Section 635.060 as established from time to time by the City Council by resolution or ordinance pursuant to Ordinance No. 973; provided however, that such person shall have the privilege of crediting against such tax as may be due hereunder any unpaid balance due for electric service rendered or facilities furnished to the City. The payment shall be a license to operate for the month immediately succeeding the month in which the payment is made. (R.O. 2008 §15-188; Ord. No. 2299 §5, 7-12-04)

SECTION 635.080: INVESTIGATION OF GROSS RECEIPTS STATEMENT

The Finance Director and such other persons as may be designated by the City Council, from time to time, is and are hereby authorized to investigate the correctness and accuracy of any statement filed under the provisions of Section 635.070 and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person filing such statement. (R.O. 2008 §15-189; Ord. No. 2299 §5, 7-12-04)

SECTION 635.090: TAX TO BE IN LIEU OF OTHER OCCUPATION TAXES



The tax required to be paid under Section 635.060 shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in Section 635.060. Nothing contained in this Article shall be construed to exempt any person to which this Article is applicable from payment to the City of any taxes, other than occupation license taxes, levied by the City upon such person or the real or personal property of such person. (R.O. 2008 §15-190; Ord. No. 2299 §5, 7-12-04)

SECTION 635.100: VIOLATIONS -- PENALTY

A. Any person engaged in any of the businesses described in Section 635.060 who shall violate any of the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to punishment as provided in Section 100.090 of this Code.

B. Delinquent taxes under this Article shall be subject to the penalties as provided for by other ordinances of the City, now or hereafter enacted, relating to penalties upon delinquent taxes. (R.O. 2008 §15-191; Ord. No. 2299 §5, 7-12-04)

SECTION 635.110: NO AUTOMATIC ADJUSTMENTS

Pursuant to Section 393.275, RSMo., and any and all other applicable authority, the City shall maintain the tax rate of its business license taxes on the gross receipts of electric utilities without reduction notwithstanding any periodic fluctuations in the tariffs of such utility corporations or any notice thereof including, but not limited to, notice sent under Section 393.275, RSMo. (R.O. 2008 §15-192; Ord. No. 4018 §2, 4-24-06)

CHAPTER 100: GENERAL PROVISIONS

Note--Resolution No. 582 adopted September 27, 2004, enacted provisions concerning the "open meetings and records policy" for the city. These are on file in the city offices.

SECTION 100.010: TITLE -- CITATIONS

This Code shall be known and may be cited as the "Code of Ordinances, City of Creve Coeur, Missouri" or simply as "the Code of Ordinances" or "the Code". (R.O. 2008 §1-1)

SECTION 100.020: DEFINITIONS AND RULES OF CONSTRUCTION

A. In the construction of this Code and of all ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council or the context clearly requires otherwise:

CITY: The words "*the City*" or "*this City*" shall be construed as if followed by the words "of Creve Coeur, Missouri".

CITY COUNCIL: The words "*City Council*" or "*Council*" shall mean the City Council of the City of Creve Coeur, Missouri. Any reference to "Board of Aldermen" shall be interpreted to mean the City Council.

CODE: The words "*the Code*" or "*this Code*" shall mean the "Code of Ordinances, City of Creve Coeur, Missouri".

COMPUTATION OF TIME: The time in which any act provided by law is to be done is computed by excluding the first (1st) day and including the last, unless the last day is a Sunday, in which case it shall also be excluded.

COUNTY: The words "*the County*" or "*this County*" shall mean the County of St. Louis, Missouri.

DAY: Any period of twenty-four (24) hours.

DAYTIME: The period of time between sunrise and sunset.

GENDER: When any subject matter, party or person is described or referred to by words importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, are included

IN THE CITY: Includes all territory over which the City now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

JOINT AUTHORITY: All words giving a joint authority to three (3) or more persons or officers shall be

construed as giving such authority to a majority of such persons or officers.

MISDEMEANOR: See Section 100.090 of this Code.

MONTH: A calendar month.

NIGHTTIME: The period of time between sunset and sunrise.

NUMBER: Whenever, in any Statute, words importing the plural number are used in describing or referring to any matter, parties or persons, any single matter, party or person is included, although distributive words are not used.

OATH: Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases, the word "swear" or "sworn" shall be equivalent to the words "affirm" and "affirmed".

OFFICERS, DEPARTMENTS, ETC: Officers, departments, boards, commissions, committees and employees referred to in this Code shall mean officers, departments, boards, commissions, committees and employees of the City of Creve Coeur, unless the context clearly indicates otherwise.

OFFICIAL TIME: Whenever certain hours are named in this Code, they shall mean Central Standard Time or Daylight-Saving Time, as may be in current use in the City.

OR, AND: "Or" may be read "and", and "and" may be read "or", if the sense requires it.

OWNER: The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

PERSON: Includes any person, firm, association, organization, partnership, business trust, corporation or company and any other group acting as a unit. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any Section of this Code prescribing a fine or penalty, as to partnerships or associations, the word shall include the partners or members thereof and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such Section.

PERSONAL PROPERTY: Includes money, goods, chattels, things in action and evidences of debt.

PRECEDING, FOLLOWING: Next before and next after, respectively.

PROCESS: Includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

PROPERTY: Includes real and personal property.

REAL PROPERTY: Coextensive with lands, tenements and hereditaments.

SHALL, MAY: "Shall" is mandatory; "MAY" is permissive.

SIGNATURE OR SUBSCRIPTION BY MARK: Includes a mark when the signer or subscriber cannot write,

such signer's or subscriber's name being written near the mark by a witness who writes his/her own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two (2) witnesses so sign their own names thereto.

STATE: The words "*the State*" or "*this State*" shall be construed to mean the State of Missouri.

TENANT OR OCCUPANT: The word "*tenant*" or "*occupant*", applied to a building or land, shall include any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

TENSES: The present tense includes the past and future tenses and the future includes the present.

WEEK: Seven (7) consecutive days.

WRITING: Includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language, unless expressly provided otherwise.

YEAR: A calendar year beginning January first (1st) and ending on the following December thirty-first (31st), except where otherwise provided.

B. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out. (R.O. 2008 §1-3; Ord. No. 4092 §1, 7-9-07)

State Law References--Definitions, rules of construction, §§1.020, 1.030, 1.040, 1.050, RSMo.

SECTION 100.030: PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments. (R.O. 2008 §1-4)

SECTION 100.040: EFFECT OF REPEAL, ETC., OF ORDINANCES

A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect unless otherwise expressly provided in such ordinance.

B. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

C. Whenever any ordinance or part of an ordinance shall be revised, repealed or modified by a subsequent ordinance, the ordinance or part of ordinance thus revised, repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying the same, where publication is

required by law. (R.O. 2008 §1-5)

SECTION 100.050: SEVERABILITY OF PARTS OF CODE

It is hereby declared to be the intention of the City Council that the Sections, paragraphs, sentences, clauses and phrases of this Code are severable and if any phrase, clause, sentence, paragraph or Section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Code. (R.O. 2008 §1-6)

SECTION 100.060: CATCHLINES OF SECTIONS

The catchlines of the several Sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the Section and shall not be deemed or taken to be titles of such Sections, nor as any part of the Section, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catchlines, are amended or re-enacted. (R.O. 2008 §1-7)

SECTION 100.070: SUPPLEMENTATION OF CODE

A. By contract or by City personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

B. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

C. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catchlines, headings and titles for Sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
3. Assign appropriate numbers to Sections and other subdivisions to be inserted in the Code and, where necessary, to accommodate new material, change existing Section or other subdivision numbers;
4. Change the words "this ordinance" or words of the same meaning to "this Chapter", "this Article", "this Division", etc., as the case may be or to "Sections _____ to _____" (inserting Section

numbers to indicate the Sections of the Code which embody the substantive Sections of the ordinance incorporated into the Code); and

5. Make other non-substantive changes necessary to preserve the original meaning of ordinance Sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code. (R.O. 2008 §1-8)

SECTION 100.080: ALTERING CODE

It shall be unlawful for any person in the City to change or amend by additions or deletions any part or portion of this Code or to insert or delete pages or portions thereof or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Creve Coeur to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.090 hereof. (R.O. 2008 §1-9)

SECTION 100.090: GENERAL PENALTY -- CONTINUING VIOLATIONS

A. Where, by any provision of this Code or any other ordinance of the City or any rule or regulation promulgated pursuant thereto, the doing of or the failure to do any thing or act is prohibited, declared to be a misdemeanor, an offense or unlawful and no other penalty or punishment is provided therefor, the same shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or a jail sentence not to exceed three (3) months, or by both such fine and jail sentence unless a lesser penalty be required by law, in which event the punishment shall not exceed such lesser penalty required by law, any provision of this Code or other ordinance to the contrary notwithstanding. "*Misdemeanor*" shall be construed to mean a violation of any ordinance of the City.

B. Prisoners shall be discharged upon payment of fines and costs, when such are assessed and upon the service of the period of imprisonment imposed, if any is imposed.

C. Except as otherwise provided, every day any such violation shall continue shall constitute a separate offense. (R.O. 2008 §1-10; Ord. No. 1972 §1, 12-14-98; Ord. No. 5075 §2, 2-9-09)

Cross References--Motor vehicles and traffic, Title III; municipal court, ch. 135; police, ch. 200.

SECTION 100.100: WHEN SAME OFFENSE PUNISHABLE UNDER DIFFERENT ORDINANCES, ETC.

In all cases wherein the same offense may be made punishable or shall be created by different provisions of this Code or other ordinances of the City or by different clauses or Sections of the same ordinance, the prosecuting officer may elect under which to proceed, but not more than one (1) recovery or penalty shall be had or enforced against the same person for the same offense, provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty or recovery being enforced or had. (R.O. 2008 §1-11)

SECTION 100.110: PARTIES TO AN OFFENSE

Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful or an offense or a misdemeanor, whether individually or in connection with one (1) or more other persons or as principal, agent or accessory, shall be guilty of such unlawful act or offense or misdemeanor and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision hereof shall likewise be guilty. (R.O. 2008 §1-12)

DEFENDANTS TO BE SERVED

Ameren Corporation

Registered Agent:
Kenneth L. Schmidt
500 East Independence Drive
Union, MO 63084

Union Electric Company d/b/a AmerenUE and Ameren Missouri

Registered Agent:
Kenneth L. Schmidt
500 East Independence Drive
Union, MO 63084